

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LISA MENNINGER,

Plaintiff,

v.

PPD DEVELOPMENT, L.P.,

Defendant.

Civil Action No.
1:19-cv-11441-LTS

BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

JURY TRIAL
Day 5

Friday, March 24, 2023
8:46 a.m.

John J. Moakley United States Courthouse
Courtroom No. 13
One Courthouse Way
Boston, Massachusetts

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P R O C E E D I N G S

(In open court.)

THE DEPUTY CLERK: The United States District Court for the District of Massachusetts is now in session, the Honorable Leo T. Sorokin presiding.

THE COURT: Please be seated.

I see all counsel.

Anything to talk about?

MR. HANNON: Nothing here.

MS. MANDEL: Nothing here, Your Honor.

THE COURT: Good. All right. Then I'll come back at two minutes to 9:00.

I forget, who's on the -- oh, Ms. Ballweg is on the witness stand, right? Just when we come back, just have her take the witness stand, so when we come in, we're ready to go.

MS. MANDEL: Will do.

THE COURT: Great. All right. We'll stand in recess.

(Court in recess at 8:47 a.m.

and reconvened at 8:59 a.m.)

THE COURT: Kellyann, will you go get the jury.

I got my stopwatch today, Mr. Hannon; 22 minutes.

MR. HANNON: Judge, you're going to be so impressed.

1 THE COURT: Oh, good.

2 (The jury enters the courtroom.)

3 THE COURT: Good morning, ladies and gentlemen.

4 Nobody discussed the case with anyone, among yourselves or
5 anyone else. No independent research? Or anything else?

6 Great.

7 All right. We proceed.

8 I remind you, Ms. Ballweg, you remain under oath.

9 Mr. Hannon, go ahead.

10 MR. HANNON: Thank you, Your Honor.

11 **DEBORAH BALLWEG**

12 having been previously duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF, Cont.**

14 BY MR. HANNON:

15 **Q.** Ms. Ballweg, do you know what gaslighting is?

16 **A.** No, I don't believe I do.

17 **Q.** You've never heard the term before?

18 **A.** I've heard the term. I just don't know what it means.

19 **Q.** Did you try to convince Dr. Menninger that you were going
20 to conduct a thorough and impartial investigation with
21 respect to the concerns that she raised?

22 **A.** That was my commitment to Dr. Menninger, yes.

23 **Q.** And you indicated to her that if there was anything going
24 on in terms of any of this untreatment -- I'm sorry, any of
25 this mistreatment that she alleged, that you were going to

1 get to the bottom of it, right?

2 **A.** That I would thoroughly investigate and the findings I
3 would look into for sure.

4 **Q.** And if it was there, you were going to find it, right?

5 **A.** I would weigh the information that was provided to me in
6 a fair and unbiased way.

7 **Q.** And you understood that was important to her, right?

8 **A.** That's an important part of the process, yes.

9 **Q.** Well, but specific to Dr. Menninger, you knew that was
10 important, right?

11 **A.** Of course.

12 **Q.** And part of that was because you knew that she had mental
13 health issues, right?

14 **A.** That she had disclosed a disability, correct.

15 **Q.** Specifically mental health issues, right?

16 **A.** Social anxiety, yes.

17 **Q.** Okay. And you knew she was very anxious about your
18 investigation, right?

19 **A.** I'm not sure if she was anxious about the investigation.

20 **Q.** Well, she frequently reached out to you to check in on
21 the status of the investigation, right?

22 **A.** I believe Dr. Menninger and I had three conversations,
23 one at the onset of the investigation, one follow-up
24 conversation, where I had some questions, and then a third
25 discussion around the findings of the investigation.

1 **Q.** Okay. My question is a little bit different. Did she
2 frequently contact you to get an update on the investigation?

3 **A.** I don't recall. She may have. I don't recall.

4 **Q.** I'm going to show you Joint Exhibit 242.

5 So this is an e-mail exchange between yourself and
6 Dr. Menninger; is that right?

7 **A.** That's correct.

8 **Q.** Okay. And I'm just going to start here at the -- the
9 first message in this chain. It's the fourth page is blank.
10 We go to the third page. And so this starts with an e-mail
11 from you to Dr. Menninger, on May 2, 2018; is that right?

12 **A.** Yes.

13 **Q.** Okay. Is this the first time that you reached out to her
14 to let her know that you were going to conduct an
15 investigation?

16 **A.** Yes.

17 **Q.** And, in fact, you and Dr. Menninger met on May 2nd,
18 correct?

19 **A.** I believe we did, yes.

20 **Q.** Okay. So Dr. Menninger, she only had a few hours, in
21 terms of prepping to speak with you about your investigation?

22 **A.** She had the opportunity to tell me if the time wasn't
23 convenient.

24 **Q.** Yeah, that wasn't my question.

25 Did you just give her a few hours to prep for your

1 conversation?

2 **A.** I -- I put a time out there. If it wasn't convenient for
3 Dr. Menninger, she had the right to say it wasn't convenient
4 for her to prep for our discussion.

5 **Q.** And in looking at the response up, you see here that on
6 May 8th, there's an e-mail from Dr. Menninger to you? Do you
7 see that there?

8 **A.** Yes.

9 **Q.** And she's asking you how long the investigation is going
10 to take?

11 **A.** Correct.

12 **Q.** And looking at the next page -- excuse me -- looking now
13 at the second page of the document, there at the bottom, you
14 see Dr. Menninger sends a follow-up e-mail on May 8th, with
15 some additional information; is that right?

16 **A.** Yes.

17 **Q.** Okay. And then you respond back to her the next day,
18 letting her know you still have to speak to some folks,
19 right?

20 **A.** Correct.

21 **Q.** And you indicate you're hoping to have a final conclusion
22 for her by Friday?

23 **A.** Correct.

24 **Q.** And then you see she follows up, and she thanks you, and
25 asks you if you have any additional questions?

1 **A.** Yes.

2 **Q.** And then, looking at the first page here, you say you
3 have some follow-up questions; is that right?

4 **A.** Yes.

5 **Q.** Okay. And then, in fact, on May 15th, you and
6 Dr. Menninger met again; is that right?

7 **A.** Yes.

8 **Q.** Okay. And she answered your questions?

9 **A.** She did, yes.

10 **Q.** And then on Friday, May 18th, you see she -- she followed
11 up with you again, asking if there's any update. Do you see
12 that?

13 **A.** Yes.

14 **Q.** And that's what leads to your response on May 18, 2018;
15 is that right?

16 **A.** Correct.

17 **Q.** Okay. So you -- you understood this was very important
18 to Dr. Menninger, right?

19 **A.** Yes.

20 **Q.** Okay.

21 MR. HANNON: That's all I have, Your Honor.

22 THE COURT: Okay. Thank you.

23 Any redirect?

24 MS. MANDEL: Yes, Your Honor.

25 THE COURT: You don't have to.

CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT

BY MS. MANDEL:

Q. Good morning, Deb.

A. Good morning.

Q. How are you doing?

A. I'm okay. Thanks.

Q. Can you tell the jury where you live?

A. I live in Hollandale, Wisconsin.

Q. And as far as you understand, why is your position based in Wisconsin?

A. I was hired to support one of the labs; it was physically located in Middleton, Wisconsin.

Q. And that's near where you live?

A. Correct.

Q. Did Chad St. John used to report to you at PPD?

A. He did, yes.

Q. What years did Chad report to you?

A. Chad started in the year 2013 and left in 2019, and he reported to me for all of that time.

Q. Did you and Chad ever work out of the same physical location?

A. No, we did not.

Q. As far as you understand, why did you and Chad work in different physical locations?

A. So as HR professionals, we wanted to be able to have

1 support at the larger sites within our organization, so that
2 we could be available to employees, to appreciate the
3 culture, to be there for coaching and counseling, just really
4 understand what's happening within the local location.

5 **Q.** Can you explain the structure of HR support for the
6 Highland Heights Central Lab location in particular? And
7 we're talking about the time period of, let's say, like 2015
8 to 2018.

9 **A.** So Chad -- based on the site of the organization, Chad
10 was the sole HR practitioner for that site. He would be
11 responsible for the full service HR support for the employees
12 and the managers at that location.

13 **Q.** And what role did you play at that time with regard to
14 the Highland Heights Central Lab location?

15 **A.** Because I sat in Middleton, my role was to support
16 Middleton's responsibilities, employees, and their
17 challenges, work with managers there. And I had, as Chad
18 reported to me, oversight of that facility, but wouldn't be
19 involved in the day-to-day activities.

20 **Q.** When did you first meet Dr. Menninger?

21 **A.** I believe -- she started in 2015. I would, as part of my
22 role, travel to various locations for leadership team
23 meetings, visiting with my employees. And I believe I met
24 Dr. Menninger during one of those visits. It was probably
25 late 2015, maybe early 2016.

1 **Q.** And you recall meeting her -- do you recall meeting her
2 in person at that time?

3 **A.** Yes, I do.

4 **Q.** Did you have any involvement in the hiring of
5 Dr. Menninger?

6 **A.** No, I did not.

7 **Q.** Did you routinely provide day-to-day HR support in
8 connection with Dr. Menninger's position?

9 **A.** No, I did not.

10 **Q.** During the period of -- again, let's limit it to late
11 2016 to 2018, did you meet with Chad on a regular basis?

12 **A.** We did, yes.

13 **Q.** What was the structure of those meetings?

14 **A.** They were generally routine meetings, what's happening
15 within the business, any concerns with the employees, the
16 culture, just a general where are we at from the state of the
17 business.

18 **Q.** How often did those meetings occur?

19 **A.** We met on a biweekly basis.

20 **Q.** Were they by phone, video chat, some other format?

21 **A.** This was before COVID, so we didn't have the technology
22 to do video chats, so it was really just by phone.

23 **Q.** Do you recall the first time that Dr. Menninger's name
24 came up during one of those meetings with Chad?

25 **A.** So she had started in, I think, the fall of 2015. Her

1 name probably came up fairly frequent -- fairly soon
2 thereafter, just in the context of, as we onboard new
3 leaders, how are they feeling about their role, how are they
4 impacting their teams? It would have been just how is she
5 onboarding and what's the impact to the team.

6 **Q.** And what do you recall understanding about how that
7 onboarding and teamwork was going?

8 **A.** Dr. Menninger, again, medical director, CAP CLIA for the
9 organization, important leader for our business. Chad was
10 seeing early on her, perhaps, more timid approach to
11 leadership. She -- again, when you come in, you want to make
12 sure that leaders are well established, that they're working
13 well with their employees, they're, you know, understanding
14 what the roles are and being there supporting and coaching.
15 Not that she wasn't doing some of that, she was just doing
16 that more from her office, she wasn't out, engaging with the
17 employees, just a little more behind-the-scenes-type leader.

18 **Q.** And when you say -- I think you used the term "CAP CLIA"
19 for the organization. And I understand you're not involved
20 in the medical or lab side, but what is your understanding of
21 what that means?

22 **A.** So my understanding is for the Central Lab to be able to
23 conduct the business that they do, there has to be a licensed
24 medical director who reviews and releases results. And
25 Dr. Menninger held those licensures to allow the business to

1 conduct the work that they did for clients.

2 **Q.** And you testified just a moment ago about some of the
3 information you were learning early on from Chad. Was this
4 typical of the type of information that Chad provided to you
5 during those, I think you called them the day-to-day, or the
6 one-on-ones that you had with Chad. Was that typical of
7 those?

8 **A.** Yes. Yes it would be for all the leaders at central lab,
9 even financially what is the health of the business, just in
10 general the wellbeing and for our employee, our employees
11 feeling like they're being supported by their leaders, are we
12 creating a good environment, are we focused on their health
13 and wellbeing, are we focused on their development. So, yes,
14 we would have those routine conversations about those types
15 of activities.

16 **Q.** How did you respond when Chad gave you this update? And
17 again, I think you said it was 2016?

18 **A.** It was really just a coaching conversation.

19 MR. HANNON: Objection. Relevance.

20 THE COURT: Overruled.

21 You can answer.

22 THE WITNESS: Thank you.

23 It was really just a coaching opportunity, ensuring
24 that Chad would, you know, stay close to Dr. Menninger and
25 the team, and make sure that everybody felt that they were --

1 that their needs were being met, and we were focused on
2 contributing to the organization in an effective way.

3 BY MS. MANDEL:

4 **Q.** Do you recall Chad bringing up those issues again with
5 you at any point?

6 **A.** He did. There was one manager within Dr. Menninger's
7 team that was a bit challenging, a bit of a difficult
8 personality, if you will. And Chad brought up that he was
9 helping coach Dr. Menninger to work with this leader to
10 ensure that her employees felt, again, supported.

11 **Q.** With what frequency do you recall this came up in your
12 conversations with Chad?

13 **A.** I believe that the employees were feeling -- there was
14 anxiety. There was concern about this leader and her
15 interaction with them. So it was fairly frequently, just to
16 ensure that things were moving forward.

17 **Q.** And when you say "This leader," are you referring to the
18 other manager that you mentioned?

19 **A.** So this would have been a leader reporting directly to
20 Dr. Menninger, yes.

21 **Q.** From your perspective, did you understand that these
22 concerns got to a point where they were fully resolved?

23 **A.** Yes. So this leader had actually left the organization,
24 so that particular situation resolved, yes.

25 **Q.** Do you recall hearing Dr. Menninger's name come up in any

1 other context in your regular meetings with Chad?

2 **A.** Yes, there was a discussion around Dr. Menninger's
3 pending relocation to Massachusetts.

4 **Q.** Did Chad bring this up with you?

5 **A.** Yes, he did.

6 **Q.** When did Chad raise this?

7 **A.** This would have been likely early, maybe, spring of 2017.

8 **Q.** And given your HR role in the company, what was your
9 professional opinion of this relocation plan?

10 **A.** It was concerning. A very, you know, credentialed
11 individual, executive leader, who has responsibilities for a
12 large part of the business not being on sight, again, being
13 there to create the environment of development and learning
14 and ensuring that we responded to our clients, and just
15 general oversight on laboratory based activities, to not have
16 a lab leader there was concerning from an HR perspective, as
17 it would be with any other significant leader not being on
18 site.

19 **Q.** Did you share this opinion with anyone?

20 **A.** Chad and I talked about it. I believe he was going to
21 coach or share that sentiment with Hacene, Dr. Menninger's
22 manager. And I would have shared that with my manager, as
23 well.

24 **Q.** Did you become aware at any point that Dr. Menninger did
25 relocate to Massachusetts?

1 **A.** Yes, I did become aware of that.

2 **Q.** How did you become aware of that change?

3 **A.** Chad would have informed me.

4 **Q.** And at that point, did you become concerned that
5 Dr. Menninger had actually made the move?

6 **A.** Again, for the same reasons, yes, that there was lack of
7 leadership on site for a team who, again, she's fairly new to
8 the organization, making sure that there was both development
9 oversight, as well as technical oversight for that team.

10 **Q.** Did you speak directly with Mr. Mekerri about those
11 thoughts?

12 **A.** No, I did not.

13 **Q.** Was there a reason that you didn't speak directly with
14 Mr. Mekerri about that?

15 **A.** Again, the structure of our HR team, I -- my day-to-day
16 activities were truly focused on the Middleton location.
17 Chad's responsibility would be to, you know, the maintenance
18 and wellbeing of that team, so it would have been, you know,
19 Chad's responsibility to have those coaching discussions or
20 discussions with Hacene directly.

21 **Q.** Deborah, are you familiar with something called a nine
22 box talent review process?

23 **A.** Yes.

24 **Q.** What does that mean?

25 **A.** So a nine box is really a tool.

1 THE COURT: "Nine" or "non"?

2 THE WITNESS: Nine.

3 THE COURT: Nine, like the number nine.

4 THE JUROR: Yeah. Nine.

5 THE COURT: Got it. Go ahead.

6 THE WITNESS: So the nine box is really a tool that
7 leaders use to look at our leadership strength within our
8 organization. It's really a point in time document to say,
9 as we think about succession planning and development
10 opportunities, where do we see the leaders impacting our
11 business.

12 BY MS. MANDEL:

13 Q. And did PPD begin to use this nine box analysis at some
14 point that you recall?

15 A. They did, yes.

16 Q. When was that?

17 A. So the concept wasn't new, but within the laboratory
18 based businesses, we started using that, I believe it was
19 2017 time frame.

20 Q. Bringing up Joint Exhibit 401. Do you see on the screen
21 in front of you, Deb, a document coming up with an e-mail?

22 A. Yes.

23 Q. Can you please describe the purpose of this December 20,
24 2017, e-mail, on the first page of the document that came
25 from you?

1 **A.** Yes. This was an e-mail to -- there's distinct labs and
2 each lab has a leader. So it was an e-mail to these leaders,
3 indicating the procedure to complete nine boxes. So we had,
4 you know, a point in time document concluded for that
5 particular year. It was just a reminder that that was a
6 procedural expectation we had for the leaders.

7 **Q.** Let's look at the second page of this document. Is this
8 a nine box?

9 **A.** This is the nine box, yes.

10 **Q.** And can you just describe visually what we're looking at
11 on this page?

12 **A.** So the nine box, again, when you look at the leadership
13 across a business unit, it's really where do we see people
14 who are going to continue to bring our business forward. Who
15 are those that are, perhaps, high potential. They're
16 creating your innovations for our organization. But at the
17 end of the day, the nine box is used -- all of these leaders
18 are important to our business.

19 When you think about discretionary energy, at the
20 end of the day, when you have more time, where do we want to
21 invest in development opportunities for leaders. Again,
22 those that are driving business forward, bringing innovative
23 and creative ideas. So that was the purpose of the nine box,
24 to outline, who are those leaders that we want to spend time
25 developing them, providing opportunities.

1 **Q.** And as of this time in 2017, do you see names on here of
2 people who reported to Hacene Mekerri?

3 **A.** Yes.

4 **Q.** Do you see them -- are they all showing up in the same
5 box?

6 **A.** No, they are not.

7 **Q.** What does it mean that Dr. Menninger is listed in the
8 bottom middle box, where it says, "Limited progress"?

9 **A.** So by definition, again, a leader who is doing a great
10 job, performing, contributing to the organization, but
11 wouldn't have been viewed as a potential successor for Hacene
12 or another -- well, really for Hacene, as his direct report.
13 And, again, doing a good job, but not someone who is going to
14 be promoted or moving upward within the next cycle, which
15 would be the next year that we would evaluate this.

16 **Q.** What is your understanding of the input process that
17 resulted in Dr. Menninger's placement in that particular box
18 in 2017?

19 **A.** There would have been a discussion at the executive
20 leadership level, really, again, about aspirations, what are
21 these individuals aspire to do with their career, where are
22 they at from a development perspective? And then there would
23 be data points from others who would work with that
24 individual to provide some data points and input.

25 **Q.** Did Dr. Menninger's placement in that limited progress

1 box reflect her job performance in 2017?

2 **A.** No. Although performance is on the bottom axis,
3 performance is a factor, how are they performing in their
4 role, but it's not a performance indicator.

5 **Q.** Did Dr. Menninger's placement in this limited progress
6 box have consequences for her continued employment as
7 executive director of labs?

8 **A.** Absolutely not. That was not the purpose of the nine
9 box.

10 **Q.** And based on your recollection some years ago, based on
11 your recollection, do you see the names of other people who
12 reported to Mr. Mekerri in that limited progress box?

13 **A.** I -- the only one that I'm not sure of who -- where he
14 reported is Michael Furlong. All the others are not at the
15 Central Lab.

16 **Q.** They're not the Central Lab at all?

17 **A.** No.

18 **Q.** Deb, do you recall at some point becoming aware that
19 Dr. Menninger requested a disability accommodation?

20 **A.** Yes.

21 **Q.** And how did you become aware of that?

22 **A.** Chad would have informed me.

23 **Q.** Would that have been in the course of one of those
24 routine updates that you described?

25 **A.** Yes.

1 **Q.** Deb, another e-mail is coming up on the screen in front
2 of you. This is Joint Exhibit 280.

3 Do you recall receiving this e-mail from Chad on
4 January 31, 2018?

5 **A.** Yes.

6 **Q.** Do you know who the "Diane" is that's referenced in the
7 first line of Chad's e-mail?

8 **A.** You know, there was a Diane in our compensation
9 department, but it wouldn't make sense to be her. So I
10 really don't know who that Diane is.

11 **Q.** What do you recall thinking when you received this e-mail
12 from Chad?

13 **A.** Well, certainly concern for the wellbeing of one of our
14 employees. But also, you know, Chad's statement, you know,
15 not very specific and vague, a bit concerning, but certainly
16 wanted to make sure that he worked with Dr. Menninger and
17 followed the process to have discussions around her
18 accommodation request.

19 **Q.** Before this time in January of 2018, did you have any
20 knowledge that Dr. Menninger had a disability of any type?

21 **A.** No.

22 **Q.** Before this time, were you aware of any limitations on
23 Dr. Menninger's ability to perform her job as executive
24 director of labs?

25 **A.** No.

1 **Q.** In the 2018 time period, what was your typical
2 involvement in an accommodation discussion involving a
3 Central Labs employee?

4 **A.** I wouldn't have been involved in that at all.

5 **Q.** I'm sorry, you wouldn't have been involved?

6 **A.** I would not have been involved.

7 **Q.** Did Dr. Menninger ever reach out directly to you in this
8 January time period to discuss her accommodation request?

9 **A.** No, she did not.

10 **Q.** How often during the discussions did you and Chad have a
11 follow-up about the accommodation process with respect to
12 Dr. Menninger?

13 **A.** A few times, just to ensure procedures were being
14 followed.

15 **Q.** And was that your role as Chad's supervisor?

16 **A.** Yes. In situations where, again, an employee comes
17 forward, hears my accommodation, these are my job
18 expectations, you know, Chad could work through that.

19 This was a little bit different where it was a
20 little unclear as to what was really being asked. So I
21 got -- you know, I coached him a little bit more.

22 **Q.** Deb, we're now looking at Joint Exhibit 278, which is a
23 February 14, 2018 e-mail from Chad to you.

24 Do you recall receiving this e-mail from Chad?

25 **A.** Yes.

1 **Q.** And did you review the accommodation paperwork that Chad
2 forwarded with this e-mail?

3 **A.** I would have cursorily looked at it, yes.

4 **Q.** And why did you look at it in a cursory manner?

5 **A.** Again, full confidence that Chad could handle, you know,
6 the accommodation process with Dr. Menninger.

7 **Q.** After you received this e-mail on February 14th, did you
8 offer any opinion or thoughts about whether the recommended
9 accommodations from Dr. Menninger's physician were reasonable
10 for the business?

11 **A.** No. And I don't -- wouldn't have been in a position to
12 effectively state that. I mean, Chad and Hacene know the
13 business better than I do. They would be in a position to
14 have those conversations directly with Dr. Menninger.

15 **Q.** Did you advise Chad about how to respond to e-mails or
16 how to word e-mails to Dr. Menninger as part of this
17 accommodation discussion?

18 **A.** No, not -- no, not really.

19 **Q.** When Chad had questions about how to deal with some of
20 the challenging parts of the discussion, did you weigh in?

21 **A.** I would, yes.

22 **Q.** And why was that?

23 **A.** Again, it was -- it was a confusing time, not fully
24 understanding when Dr. Menninger said she could do her job,
25 but she needed the accommodations, just wanted to make sure

1 that we were clear in communicating to her at every -- at
2 every juncture.

3 **Q.** Do you recall receiving this e-mail from Chad on
4 March 1st of 2018, a couple weeks later?

5 **A.** Yes.

6 **Q.** What was your understanding from your perspective of why
7 Chad would have sent you this draft e-mail to Dr. Menninger?

8 MR. HANNON: I'm sorry, I don't believe the jury
9 has the document up on their screens.

10 THE COURT: Oh, yes.

11 Kellyann, can you --

12 Thank you, Mr. Hannon.

13 Have it now?

14 THE JUROR: (Affirmative responses).

15 THE COURT: Go ahead.

16 THE WITNESS: So Chad sent it to me for review,
17 going back to Dr. Menninger with here's what we are going to
18 accommodate, here's some accommodations we'll provide you,
19 and not -- or and stating that there were other
20 accommodations that were not going to be met.

21 BY MS. MANDEL:

22 **Q.** And looking down at the draft e-mail that Chad sent to
23 you, did you have an understanding as to where the list of
24 job tasks had originated? Where it had come from?

25 **A.** Yes. From Dr. Menninger's job description.

1 **Q.** And there's -- it's a little hard to tell on this
2 document, but down below, there is -- underneath where it has
3 each number, like it says, Number 2, it says "Lisa's
4 physician e-mailed details."

5 Do you see that?

6 **A.** I do. Yes.

7 **Q.** And then underneath each description, like "client bid
8 defense," for example, then it says "reasonable
9 accommodations," and it has language written in there?

10 **A.** Yes.

11 **Q.** Did you have an understanding about where that language
12 came from?

13 **A.** My understanding is that came from Dr. Menninger's
14 physician.

15 **Q.** Did you have an opinion about Chad's draft e-mail back to
16 Dr. Menninger that he sent to you here?

17 **A.** I felt that it was fine.

18 **Q.** From an HR standpoint, did you have an opinion about
19 whether it was okay to tell Dr. Menninger that PPD could not
20 accommodate certain things on this list, where it says "items
21 two, three, and four."

22 **A.** So my understanding of the process is exactly that,
23 right. It's an interactive process. The employee indicates
24 here's what I need for an accommodation to do my job, and the
25 employer evaluates that. Are these reasonable, are these not

1 reasonable. And they continue to have that conversation.
2 But the employer truly has the ability to say no these are
3 not reasonable which to perform the essential tasks of your
4 job.

5 **Q.** And based on your position in HR, did you understand that
6 these were parts of Dr. Menninger's job that had to be done?

7 MR. HANNON: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: Yes. They were from her job
10 description.

11 BY MS. MANDEL:

12 **Q.** As far as you understood, did the accommodation
13 discussion and process ever hit a completion point?

14 **A.** No.

15 **Q.** And why -- why is it that you think it never hit that
16 point?

17 **A.** There was discussions where Dr. Menninger said, "I can
18 perform the functions of my job, with or without an
19 accommodation," but her doctor's notes were indicating that
20 she couldn't do certain tasks that could exacerbate her
21 condition. So there was this unsure, you know, lack of
22 clarity about what it is that we as an organization needed to
23 provide to help Dr. Menninger.

24 **Q.** And as far as you understood from your position, what was
25 PPD's goal throughout these discussions?

1 **A.** Truly to help Dr. Menninger with her accommodated
2 requests, to perform the essential functions of her job.

3 **Q.** As part of your discussions with Chad during this time
4 period in 2018, did you and Chad ever talk about whether
5 Dr. Menninger was on a path to leave her role at PPD?

6 **A.** No.

7 **Q.** Did you ever understand from anyone at PPD that there was
8 a plan to remove Dr. Menninger from her position?

9 **A.** No.

10 **Q.** In spring of 2018, did you understand that Central Labs
11 was looking to replace Dr. Menninger?

12 **A.** Not to replace Dr. Menninger, but, as she had indicated,
13 there were gaps in regulatory obligations or licensure, and
14 there was attempt to fill those gaps, but not to replace
15 Dr. Menninger.

16 **Q.** Again, based on your understanding from HR, why would
17 there be a need to fill those gaps?

18 **A.** Again, from a licensure perspective, the type of testing
19 that we would conduct, needing to have a licensed individual
20 sign off on those results to send them to our clients.

21 **Q.** And is that spring 2018 time period the only time that
22 these discussions have come up at PPD? And I should say with
23 regard to Global Central Labs.

24 **A.** I'm sorry, could you say that again?

25 **Q.** Yeah, I didn't ask that well.

1 As far as you understand from an HR perspective, is
2 this the only time that Global Central Labs was looking at
3 how to make sure licensure was covered?

4 **A.** I think it was an ongoing -- spring of 2018. I believe
5 that was -- yes, the time that they were looking at coverage
6 of licensure. Yes.

7 **Q.** And why was that time when licensure was being discussed
8 so much?

9 **A.** Again, it was unclear as to Dr. Menninger's expectations
10 around the accountability -- or the accommodation process.
11 We were unsure -- again, we were in this interactive process.
12 We weren't sure what Dr. Menninger needed from the
13 organization.

14 **Q.** And from a licensure standpoint, understanding your role
15 is in HR, what did you understand about why Dr. Menninger's
16 plans mattered for licensure?

17 **A.** Because if Dr. Menninger wasn't on site or wasn't at the
18 organization conducting business, that we would have an
19 inability to perform the testing to get the results to our
20 clients.

21 **Q.** In front of you now should be Joint Exhibit 186. Do you
22 recall a conversation with Chad St. John about licensure
23 coverage, as referenced at the outset of your e-mail here?

24 **A.** Yes.

25 **Q.** Did you have an understanding as to why there was a

1 discussion.

2 Is that back on the screen?

3 **A.** Yes.

4 **Q.** Did you have an understanding as to why there was a
5 discussion in this e-mail, if you look down at the -- it's
6 about two-thirds of the way down the page, there's a
7 paragraph that says "all of this is good contextual
8 information." Do you understand why there was a discussion
9 there about delicately working Lisa out "since we need to
10 have her for coverage until someone else is in the seat." Do
11 you understand why that language was part of this discussion
12 about license coverage?

13 **A.** So Lisa wasn't on site at the Central Lab. I think there
14 was concern about what does the licensure require in terms of
15 having on-site leadership. And so, again, from an HR
16 perspective, we just needed to be aware that there was a gap,
17 and if there was a need, from a recruitment perspective, to
18 fill the gap.

19 **Q.** And why was it important to fill that gap?

20 **A.** Again, we couldn't conduct the work that we do if we
21 didn't have certified, licensed individuals signing off on
22 the work.

23 **Q.** As discussions continued between Chad and Dr. Menninger,
24 did you and Chad have phone conversations to talk about the
25 best approach from an HR standpoint?

1 **A.** I'm sorry. Could you say that again?

2 **Q.** Sure.

3 As conversations between Chad and Dr. Menninger
4 continued, did you and Chad have phone conversations about
5 the best approach from an HR perspective?

6 **A.** Yes.

7 **Q.** At any point in those discussions, did you support Chad
8 in consulting with PPD's legal department for advice?

9 **A.** Yes.

10 **Q.** Why was that?

11 **A.** Again, it was a confusing time. I'm not sure what
12 Dr. Menninger was, again -- I can do my job. I don't need
13 accommodation. Her doctor saying she needs an accommodation.
14 Just wanting to make sure that we are following the process
15 and providing as good of information back to Dr. Menninger as
16 possible.

17 **Q.** You've worked at HR for a long time, as you previously
18 testified. Why was this discussion and this situation
19 particularly confusing, from your perspective?

20 **A.** Again, when we get involved in a request for
21 accommodation situations, an employee is provided their job
22 description. They go to their attending physician. They
23 have a conversation, here's my job. The doctor and the
24 individual work on what are, you know, the accommodated needs
25 that the employer could provide. They bring that to the

1 organization, HR, their manager, and the employee have this
2 conversation. It's determined, are these reasonable? Are
3 these not reasonable? And it -- it's a pretty good
4 conversation and there's resolution. There's a start,
5 there's a stop, and there's an interactive dialogue, and then
6 we make a determination, and we move forward.

7 In this situation, it just wasn't that
8 straightforward.

9 **Q.** Moving forward from March to April, this is an e-mail
10 that Chad forwarded to you on April 10th. If you look at
11 sort of the middle e-mail on this page. And then you see
12 where you wrote back and you said, "I agree with your add.
13 Glad to see he's keeping it very compartmentalized."

14 Do you see that at the top?

15 **A.** Yes.

16 **Q.** What did you mean when you said to Chad "glad to see he
17 is keeping it very compartmentalized."?

18 **A.** So certainly we want to be mindful of retaliation. We
19 wanted to make sure that as Hacene is working to raise the
20 level of expectation for all of his leaders across Central
21 Lab for the year 2018, that we're very clear in communicating
22 this is not about, you know, your request for accommodation.
23 This is truly about helping the business become stronger in
24 the year 2018, and compartmentalizing those particular
25 situations.

1 **Q.** And I believe you just said that Hacene was working to
2 raise the level for expectations for all leaders for 2018.
3 What do you mean by that?

4 **A.** Again, 2018 was a year --

5 MR. HANNON: Objection. Lack of foundation. It's
6 personal knowledge.

7 THE COURT: Can you rephrase the question?

8 BY MS. MANDEL:

9 **Q.** What was your understanding, Deb, as to what the lab's
10 expectations were for leaders in 2018?

11 **A.** 2018 was a growth year, and Hacene was asking all of his
12 leaders to step up, whether it was on the commercial end,
13 let's sell more, whether it was on the lab end, let's, you
14 know, raise awareness to what we do from a technology
15 perspective, to our data management team. How can we
16 innovate our software to be swifter and faster to get the
17 results to our clients faster. Every leader across the
18 business was asked to truly think about how we can help our
19 business grow and be stronger and more profitable for our
20 clients.

21 **Q.** And when you say -- I think you said 2018 was a growth
22 time. Why specifically 2018, as far as you know, from an HR
23 standpoint?

24 **A.** Well, every year is a growth year, but Central Lab had
25 struggled from a commercial perspective, of selling of their

1 business. I believe in 2017. And the company always had
2 higher expectations year over year. We were, at that point,
3 the executives were thinking about public -- becoming a
4 publically traded organization. So I think just making sure
5 that our financial outlook was very strong in which to take
6 the company to a different level of -- from a shareholder
7 perspective, to a different level.

8 **Q.** Deb, you should see Joint Exhibit 129 in front of you.
9 And this is Chad forwarding an e-mail to you. And down
10 below, you see the e-mail that was being forwarded to you,
11 and this is an e-mail from Dr. Menninger, from April 17th?

12 **A.** Yes.

13 **Q.** And do you recall seeing this e-mail?

14 **A.** I do.

15 **Q.** Did anything that is in the correspondence that Chad
16 forwarded to you as an FYI, did anything concern you?

17 **A.** Yes. The language that Dr. Menninger used about, you
18 know, twisting words and feeling like she's being targeted.
19 Certainly I was concerned, first and foremost, for
20 Dr. Menninger, that she was feeling like she wasn't treated
21 fairly, and I felt like I wanted to certainly help her.

22 **Q.** After you received this e-mail on April 17th, what were
23 your next steps?

24 **A.** I determined that an investigation would be appropriate.

25 **Q.** Did you make that determination on your own, Deb, to do

1 an investigation?

2 **A.** Yes.

3 **Q.** Did Dr. Menninger ask you to do an investigation?

4 **A.** No, she did not.

5 **Q.** Did Dr. Menninger ever ask you to conduct an
6 investigation in a certain way?

7 **A.** No, she did not.

8 **Q.** In your HR role, were you in a position of making a
9 determination about who would conduct an investigation when
10 an issue came up?

11 **A.** Yes.

12 **Q.** In this particular situation, after reviewing the e-mail
13 that Dr. Menninger had sent, what did you conclude about who
14 should do the investigation?

15 **A.** Given the -- the organization's structure, the
16 departments that worked together, just general knowledge of
17 the laboratory space, I felt -- and being someone who wasn't
18 necessarily involved in the day-to-day activities at the
19 Central Lab, I felt that I could be that individual.

20 **Q.** Did you consider whether you had been too closely
21 involved with any of the underlying facts or people to do an
22 unbiased investigation?

23 **A.** Yes.

24 **Q.** What went into that thought process for you?

25 **A.** Again, you know, Chad being the direct HR contact for the

1 site would have, you know, conversations and knowledge and
2 his involvement and awareness in a way that I wouldn't have
3 been aware certainly played into that decision.

4 **Q.** Is there a particular process or rule that you follow for
5 determining if you shouldn't be the one to do an
6 investigation?

7 **A.** Certainly. Again, if I felt that I had, you know, direct
8 knowledge, had been part of conversations, participating in
9 decision making, you know, if I was involved in any of those
10 types of activities, I would certainly excuse myself from the
11 investigation.

12 **Q.** And as we've seen over the last couple of days, you did
13 have some knowledge and some involvement. Did you consider
14 whether that involvement made you not the right person to do
15 this investigation?

16 **A.** Certainly took that into consideration. I -- you know, I
17 was overseeing some of the exchanges, coaching Chad. But,
18 again, not being on site, not having direct conversations
19 with the individuals, understanding, you know, the climate
20 that existed at that particular lab, knowing the other -- all
21 the other departments inter -- you know, play together,
22 collaborate, I'm not aware of that not being at that site. I
23 felt that I could continue to be a fair and impartial
24 investigator.

25 **Q.** And is that something that you view as your role in HR,

1 to be a fair, unbiased investigator?

2 **A.** Absolutely.

3 **Q.** Have you ever been aware of an employee complaint and
4 determined that you would not be able to do an unbiased
5 investigation?

6 **A.** Yes.

7 **Q.** Looking back at your experience so far in HR, as you
8 recall, how many times has that happened in your support of
9 Central Labs?

10 **A.** So over the course of my time with the company, I
11 conducted over thousands of investigations. I could recall,
12 for Central Labs specifically, two unique cases where I would
13 have said I'm just not the right individual to be part of
14 this investigation.

15 **Q.** Why did you determine, in those situations, that you were
16 not the person to do the investigation?

17 **A.** My role with those situations was much like Chad. I was
18 having daily conversations with these participants. I was
19 coaching them. One was a situation where they felt their
20 manager was being impartial -- or being partial to another
21 individual in the organization. And I had been coaching up
22 that individual who felt they were not being treated fairly
23 by their manager, coaching her, helping her through this
24 situation. So it wasn't appropriate for me to be part of
25 that investigation.

1 **Q.** And what about -- what was the other situation?

2 **A.** The other situation was a hotline complaint. And as we
3 evaluated the hotline complaint, an individual male manager
4 was being -- harassing female employees. And in that one, I
5 worked directly with the male manager frequently. You know,
6 I would, again, coach and counsel him, you know, would be in
7 meetings with him and these females. So again, I had up
8 front knowledge about the situation, the individuals that
9 were cited in the complaint. I just felt it was
10 inappropriate for me to be part of that investigation.

11 **Q.** How did you handle those situations after you made that
12 determination?

13 **A.** So I would raise that to my manager and my manager would
14 work with other leaders from an HR perspective, and it was
15 reassigned to other individuals.

16 **Q.** Did you perform those investigations?

17 **A.** No, I did not.

18 **Q.** You mentioned a few minutes ago that you've done all
19 sorts of -- I think you said a lot of investigations at PPD.
20 What types of investigations does that include?

21 **A.** So certainly harassment, discrimination, even things --
22 back in -- over the course of my career with the
23 organization, you know, if employees got into a difficult
24 discussion with another colleague, those were raised as
25 complaints that were looked into. If managers weren't

1 behaving the way employees felt they should be behaving, I
2 would get involved in those. It was just a number of
3 different scenarios that I would definitely investigate.

4 **Q.** Of those, how many investigations have involved employee
5 complaints of discrimination or harassment?

6 **A.** Probably around 40 to 50.

7 **Q.** Do you have a typical practice for how you perform that
8 type of investigation?

9 **A.** Yes.

10 **Q.** What is that practice?

11 **A.** So would certainly meet with the employee, making --
12 having the concern, wanting to understand and appreciate,
13 from their perspective, what is it that they see, what's
14 happening? What information do you have to support that
15 positioning? And then it's -- it's not always a straight,
16 linear line. It's a bit of a road -- curvy road, if you
17 will, looking into their -- into their concerns. Every
18 concern that they would raise would be looked into. If it
19 that included talking with other individuals, we would talk
20 with other individuals. And certainly all under the guise
21 of, you know, confidentiality, ensuring anyone we spoke to
22 understood their role, their expectation, and that, you know,
23 they wouldn't necessarily find out the results at the end of
24 the day. And then, you know, thoroughly investigate what the
25 employee brought forward, and then we make a very impartial

1 determination on the findings and then report that back to
2 the individual making the complaint.

3 **Q.** And I believe you just mentioned confidentiality. How
4 did confidentiality impact how you choose who to speak to in
5 an investigation?

6 **A.** So we absolutely want to protect our employees. We want
7 to make sure that we create an environment that employees
8 feel valued and want to come to work every day. So you have
9 to weigh is the -- if it's an individual who has, you know,
10 key information, certainly we need to speak with that person.
11 If it seems ancillary or not key and critical, maybe a minor
12 detail that would expose the situation -- people love to
13 talk, so we really just want to make sure that at the end of
14 the day, we're speaking with individuals who truly have the
15 right information to share in investigating the concerns of
16 that employee.

17 And again, we ask for confidentiality, and I would
18 love to believe that everybody uses the confidentiality
19 clause, but I know people do like to talk, so we would be
20 very cautious in that investigation.

21 **Q.** And as you look back on investigations that you've done
22 in the past, do you sometimes see things that you might have
23 done differently or different people that you would have
24 talked to?

25 **A.** Certainly. Possibly. You know, when you give the

1 feedback to an individual, you know, what about this or what
2 about that? And if it was significant, certainly we would
3 take a look at that. But generally, by the time you conclude
4 the investigation, you're looking at the factors that the
5 employee felt contributed to their feeling. It's an
6 exhaustive investigation.

7 **Q.** And you also said a moment ago that you do investigations
8 in a prompt manner?

9 **A.** Yes.

10 **Q.** What is the importance, from your view, of being prompt
11 in the investigation?

12 **A.** So employees -- coming forward, right? We owe them a
13 swift investigation. But we certainly don't want to
14 sacrifice swiftness for incompleteness. So we certainly want
15 to find all the information in the situation for the employee
16 as swiftly as we possibly can.

17 We are a large, global, you know, high-performing
18 organization. People are traveling, people are out of
19 office, people are with clients. So it does depend on their
20 availability. But as best we can, we try to move as swiftly
21 as we can.

22 **Q.** Do you sometimes find that to be a tough balance, the
23 swiftness, the promptness, and the thoroughness?

24 **A.** Yes.

25 **Q.** In what way is that challenging?

1 **A.** Again, we want to make sure that we do the right job for
2 our employees. We want to make sure we investigate
3 thoroughly their concerns that they brought forward. And in
4 search of that information, you know, sometimes it might
5 be -- we need to involve our IT department, and they have to
6 be back and look at records. And sometimes things take
7 longer, but it's important to make sure you have the data
8 before you make the determination.

9 **Q.** When you do investigations in your HR role, do you go in
10 with preconceived notions about how they should come out?

11 **A.** Absolutely not.

12 **Q.** With respect to your investigations at PPD into
13 complaints of discrimination, harassment, have you ever
14 concluded that the complaint was justified?

15 **A.** Yes. There's times where that has occurred.

16 **Q.** Does making that conclusion that the complaint was
17 justified -- strike that.

18 When you've made the decision that the complaint
19 was justified, what have been your next steps in those
20 situations?

21 **A.** So at the conclusion, the findings would indicate, you
22 know, if there's a concern or not. I would, you know, work
23 with my manager or other departments as needed from a
24 corrective action perspective. What would be necessary here
25 for this particular situation? And they're all unique, so

1 it's not always a one-size-fits-all approach. Sometimes
2 there's been retraining of leaders, there's been retraining
3 of employees. There's been disciplinary actions, there's
4 been terminations at times. So it's really dependent upon
5 the particular situation.

6 **Q.** Turning now to the investigation involving
7 Dr. Menninger's complaint, can you please describe the
8 process that you followed after you received that e-mail from
9 Chad that we looked at?

10 **A.** Yes. So I reached out to Dr. Menninger, scheduled time
11 to chat with her, to appreciate and understand, you know,
12 what it is that she -- she saw that contributed to her
13 feelings, explained, you know, the process, the
14 confidentiality, and then started talking to the individuals
15 who had information about those concerns that she raised.

16 **Q.** And who did you determine that you should speak to as
17 part of the investigation?

18 **A.** So, again, Dr. Menninger had a series of these are why I
19 feel I am being treated unfairly by my manager. I believe
20 one was being not included in bid defenses or business
21 development meetings. There was -- she felt her 2017 review
22 was unfair. She was treated differently with her review.
23 There was quality -- she was held to a higher standard with
24 quality. She was being excluded from recruitment processes.
25 And so she outlined the situations that she felt were

1 inappropriate.

2 I started investigating each one individually.

3 **Q.** And you reviewed documents as part of your investigation,
4 as well?

5 **A.** Yes. If the situation required, you know, supporting
6 documentation, I would absolutely ask for that and review
7 them.

8 **Q.** And you described meeting with certain people. Were
9 those in-person meetings?

10 **A.** No, again, I was in Wisconsin. The majority of these
11 folks -- of course, Lisa was home based at the time. A lot
12 of these folks were in Highland Heights, so they were all via
13 phone. And it was before COVID, so it was definitely a phone
14 conversation.

15 **Q.** Who was the first person that you talked to as part of
16 that investigation?

17 **A.** Dr. Menninger.

18 **Q.** Did you meet with Dr. Menninger just that one time or
19 more than once?

20 **A.** We met a few times.

21 **Q.** Did you keep notes of your meetings and things you
22 learned during the investigation?

23 **A.** Yes.

24 **Q.** Did you take those notes yourself?

25 **A.** So, from my practice, and following the process,

1 everybody has their own uniqueness, but in my process, when I
2 speak with the individual who's raising the concern, just as
3 a matter of just empathetic listening, I actually handwrite
4 the notes. I listen and I write them. When you're on the
5 phone, I don't want the typing in the background. I don't
6 want it to appear like I'm not listening and engaged in the
7 conversation. So with Dr. Menninger, I handwrote notes as
8 she was indicating her concerns. But when I met with all the
9 other individuals, I typed, explained that I'm going to be
10 typing the notes, if you hear just, you know, background
11 noise, it's just because it's more expedient for me to type
12 notes when we talk. So that was my process with
13 Dr. Menninger.

14 **Q.** And with -- in your conversations with Dr. Menninger, did
15 you transcribe the handwritten notes into typewritten notes?

16 **A.** I did, yes.

17 **Q.** And how soon after your conversations with Dr. Menninger
18 did you do that?

19 **A.** I don't recall specifically, but again, matter of my
20 practice, you have to memorialize them as soon as possible,
21 so -- and my handwriting is not great. So I would type them
22 up either that day or generally by the next day.

23 **Q.** And this was typical -- was this typical of your
24 investigation practice?

25 **A.** Yes.

1 **Q.** Is it safe to say that the notes that you have in
2 connection with this investigation, did you take them all in
3 that spring 2018 time period?

4 **A.** Yes.

5 MR. HANNON: Objection, Your Honor, this should not
6 be shown to the jury as of yet.

7 THE COURT: As of yet?

8 MR. HANNON: Right. This hasn't been offered yet.
9 I believe she's just showing it to the witness to lay
10 foundation, but I just wanted to note this wasn't a joint
11 exhibit.

12 THE COURT: Fine. Go ahead.

13 So you understand, ladies and gentlemen of the
14 jury, what happens is things are displayed on all the
15 screens, so for you and for members of the public on that TV
16 over there, when they're in evidence.

17 When they're not yet in evidence, then they're just
18 typically talked about or sometimes a foundation is laid.
19 Say, for example, the obvious example is things that -- PPD
20 obviously has all sorts of business activities and meetings
21 that have nothing to do with Dr. Menninger in this case, or
22 even other divisions or whatever, and evidence like that, no
23 one is offering that evidence. But if they did, it would be
24 excluded because it's not relevant. It doesn't have anything
25 to do with this case. Right? And so only -- so there has to

1 be a foundation laid, that whatever the evidence is is
2 relevant to this case or relevant to the particular issues.
3 That example I gave you is sort of not one any lawyer would
4 bring up or offer, but just to give you an outlier idea. So
5 that's what Mr. Hannon is referring to, that the exhibit
6 hasn't been admitted yet into evidence, so that's all.

7 Go ahead.

8 MS. MANDEL: Thank you.

9 BY MS. MANDEL:

10 Q. And Deb, as you just heard, we need to understand what
11 this document is. And I believe you can see it on the screen
12 in front of you.

13 A. Yes, I can.

14 Q. Is that right?

15 So I'm going to show you a few different pages at a
16 time and ask you about them. The first page has a date of
17 May 2nd?

18 A. Yes.

19 Q. 2018.

20 And it reflects discussion with Dr. Menninger,
21 executive director of Central Lab?

22 A. Yes.

23 Q. And it says by Ms. Ballweg?

24 A. Yes.

25 Q. And this document, I'm just showing you the second page

1 of that. Do you see that?

2 **A.** Yes.

3 MR. HANNON: Upon further reflection, I'm not going
4 to have any objection to this document being offered in, so
5 rather than do this twice and waste time, I'm happy to have
6 the document admitted into evidence.

7 THE COURT: Fine. You're offering it?

8 MS. MANDEL: That's fine. Yes.

9 THE COURT: All right. Then this document, I think
10 the entire set, yes. The entire set is admitted.

11 All right. You can show it to the jury, and you
12 don't need the foundation question.

13 So the foundation questions are why is it relevant,
14 what does it have to do with the case, but Mr. Hannon is not
15 objecting to the document, so it now has become an agreed to
16 and admitted exhibit, and it can be displayed to the jury.

17 We just need the -- do you have a number for it?

18 MS. MANDEL: Yes, and I believe this will be 450.

19 MR. HANNON: Correct.

20 THE COURT: 450 it is. 450 in evidence. Go ahead.

21 (Exhibit No. 450 admitted into evidence.)

22 BY MS. MANDEL:

23 **Q.** So Deb, I'm going to show you -- I'm going to go back.
24 We're a little farther ahead.

25 Okay. So the first page of this document, again,

1 has a May 2, 2018 date. Do you see that?

2 **A.** Yes.

3 **Q.** And I'm just going to show you -- this document has a
4 number of pages, but we're going to start with looking at the
5 first two pages, so that's the second -- I went too far
6 ahead. So that's the second of those. Do you see that?

7 **A.** Yes.

8 **Q.** So going back to the first page of this section, are
9 these the notes that you took after that -- or strike that.
10 Are these notes that you took in connection with that initial
11 conversation with Dr. Menninger?

12 **A.** Yes.

13 **Q.** And this is simply the typewritten version of those
14 notes?

15 **A.** Correct.

16 **Q.** And does this reflect a meeting that you had with
17 Dr. Menninger on May 2nd of 2018?

18 **A.** Yes.

19 **Q.** Can you describe for the jury what the purpose was of
20 that meeting on May 2nd with Dr. Menninger?

21 **A.** Again, she had expressed in an e-mail to Chad that she
22 was feeling that Hacene was treating her differently. And
23 this was my desire to do what I could to help Dr. Menninger,
24 met with her, and had her outline for me what were the issues
25 that contributed to her feeling that way.

1 Q. And I see a number of items with numbers next to them.

2 A. Yes.

3 Q. What is that list of numbered items?

4 A. These are the specific instances or issues that
5 Dr. Menninger pointed out that contributed to her feeling
6 like her manager was not treating her fairly.

7 Q. And your notes here, this is a reflection of what you
8 learned from Dr. Menninger in that regard?

9 A. Correct. So the number one is the issue that she had
10 stated, which I, again, noted on our May 2nd discussion. The
11 5/15 reference was a follow-up conversation I had after I
12 have conducted, you know, pieces of the investigation, there
13 were follow-up questions that I had for Dr. Menninger, so I
14 went back and asked her some additional questions. So that
15 would be the 5/15 follow-up documentation.

16 Q. So except where it says 5/15, these are notes of the
17 May 2nd meeting?

18 A. Yes.

19 Q. And where it says 5/15, did you add those notes after the
20 May 15th conversation with Dr. Menninger?

21 A. That's correct.

22 Q. So let's go through each of these. Number one, it says,
23 "Work issues with Gedeon Richter, NGSP, BMS, and GSK. Issues
24 are no more or less severe than historic issues, yet Hacene
25 has made them an issue;" and then it says semicolon

1 "e-mails"?

2 **A.** Yes.

3 **Q.** Can you explain what you learned from Dr. Menninger
4 during that May 2nd discussion about that particular concern?

5 **A.** That there were -- that there were ongoing challenges
6 within the lab. There were errors that were happening
7 throughout the course of her leadership, and that Hacene,
8 after she disclosed her disability, was raising these
9 concerns differently than he had historically.

10 **Q.** And what did -- what did you understand -- you wrote --
11 where it says "e-mails," what was your understanding of what
12 that meant?

13 **A.** That Lisa had provided e-mails in support of that.

14 **Q.** And so does that reflect e-mails that you reviewed as
15 part of your investigation?

16 **A.** Yes.

17 **Q.** And immediately below that, there's a small letter (a),
18 and it has what I believe you testified was your addition in
19 light of a May 15th conversation?

20 **A.** Correct. I would have added information from the
21 follow-up conversation I had with Lisa.

22 **Q.** And you say follow-up conversation. What was the purpose
23 of the follow-up conversation?

24 **A.** So as I was investigating and finding information that
25 related to is this a correct reflection? Is she truly -- is

1 this truly occurring, there were questions that arose in
2 finding that data, and I wanted a follow-up question with
3 Lisa just to make sure that I was understanding her position,
4 and being able to clearly articulate and investigate her
5 concern.

6 **Q.** And so does what appears in (a), under number one,
7 reflect what Dr. Menninger shared with you on May 15th in
8 connection with that first item?

9 **A.** That's correct.

10 **Q.** And just to go through that, it says, "Lisa indicated
11 that Hacene now will ask her in an accusatory way about
12 issues, like she did something wrong. Lisa feels that Hacene
13 is going out of his way to document her performance and feels
14 the goals she has are impossible to meet."

15 Do you see that?

16 **A.** Yes.

17 **Q.** "Hacene, in response to GSK issue, sent her and Els an
18 e-mail asking them to be involved."

19 Do you see that, as well?

20 **A.** Yes.

21 **Q.** And that reflects what you learned at that time?

22 **A.** That's what Lisa indicated, yes.

23 **Q.** And then in number two below, this is the next item that
24 Dr. Menninger had indicated was a source of concern?

25 **A.** Yes. During that May 2nd meeting, this was the second

1 situation she felt was contributing to Hacene's change in
2 behavior.

3 **Q.** And then this is -- you indicated, "Not invited to
4 participate in recruiting like in the past. Hiring of
5 Patrick Mann to report to Lisa without her formally
6 interviewing, other interviews, Narine, not involved, but --
7 dotted line -- reporting relationship."

8 **A.** Yes.

9 **Q.** And that's what Dr. Menninger reported to you on May 2nd?

10 **A.** Yes.

11 **Q.** And then below that, where it has the number -- or the
12 letter (a), and it says 5/15, this is additional information
13 that you learned from Dr. Menninger; is that right?

14 **A.** Correct.

15 **Q.** And Dr. Menninger told you that Mr. Mekerri had a
16 conversation with her at the end of December?

17 **A.** Yes.

18 **Q.** And Dr. Menninger's recollection was about Dr. Menninger
19 having vetted candidates and then passing them along to
20 Mr. Mekerri. Is that what you understand that to mean?

21 **A.** Yes.

22 **Q.** And number 3 below, it says, "New expectation to attend
23 bid defense and client visits."

24 **A.** Yes.

25 **Q.** "Is being asked to speak about topics that she's not

1 knowledgeable."

2 **A.** Yes.

3 **Q.** "Molecular, micro, and analytical pathology"?

4 **A.** Correct.

5 **Q.** And does this reflect what Dr. Menninger told you on
6 May 2nd was the source of concern?

7 **A.** It does, yes.

8 **Q.** And then beneath that, on -- with your 5/15 addition, do
9 you see that says, "Follow-up with Lisa." And then it says,
10 "Lisa indicated she had a discussion with Hacene in November
11 about being overwhelmed."

12 And based on your recollection at this time, was
13 that referring to November of the previous year?

14 **A.** November of 2017, yes.

15 **Q.** "She sent Hacene a list of responsibilities, but there
16 was no follow-up by either her or Hacene."

17 **A.** Yes.

18 **Q.** "She feels that Hacene doesn't have an overall awareness
19 of what her job as lab director entails."

20 **A.** Correct.

21 **Q.** And as far as you knew, that time period of
22 November 2017, was that before or after Dr. Menninger had
23 disclosed a disability?

24 **A.** That was before.

25 **Q.** Number 4 below, it says, "Not invited to 2018

1 sales/marketing routine meetings. Asked to have meeting
2 request forwarded but has not happened."

3 **A.** Yes, another issue we talked about in the May 2nd
4 meeting.

5 **Q.** And below that it says, "Town hall with Sharbaugh"?

6 **A.** Sharbaugh was our chief operating officer.

7 **Q.** "Not included in planning, no introduction while on
8 site."

9 Is that also reflecting something that
10 Dr. Menninger told you about on May 2nd?

11 **A.** Correct.

12 **Q.** And then on the next page, 2017, "No performance review
13 discussion, not much commentary in the review, but lower
14 ratings. 360 feedback with Hacene, but nothing more on
15 overall review from 2017."

16 Does that reflect information that Dr. Menninger
17 gave you on May 2nd?

18 **A.** Yes.

19 **Q.** And in, (a), beneath that, there's additional information
20 that Dr. Menninger provided; is that right?

21 **A.** Correct.

22 **Q.** And then the last item is, "Discussion of exit package
23 and/or consulting role during review of accommodations."

24 **A.** Correct.

25 **Q.** And that's information that Dr. Menninger told you was

1 the basis of concern on May 2nd?

2 **A.** That was the seventh concern, yes.

3 **Q.** And in the first six that we've looked at, did you have
4 an understanding that those concerns related specifically to
5 Dr. Menninger's request for accommodation?

6 **A.** No.

7 **Q.** After you went through these concerns with Dr. Menninger
8 on May 2nd, what did you do next?

9 **A.** Then I started the investigation.

10 **Q.** And let's look at more notes.

11 These notes say May 4th, so that's two days later;
12 is that right?

13 THE COURT: Yes.

14 THE WITNESS: Two days later?

15 BY MS. MANDEL:

16 **Q.** And that indicates that this was a discussion with Chad
17 St. John?

18 **A.** Correct.

19 **Q.** And did you take these notes, as well?

20 **A.** I did, yes.

21 **Q.** Can you explain the structure of the notes that we're
22 seeing on the page in front of us?

23 **A.** So with Chad being the HR site -- the HR individual to
24 support the site, he would have knowledge of certain of these
25 items. So I walked through each of Dr. Menninger's issues

1 that she had reported to me and asked for Chad's perspective.
2 So the numbers are all seven, and did he have information,
3 relevant information related to any of those seven. So the
4 (a)s on here would be what Chad's response was to the
5 questions.

6 **Q.** Can you take us through each of those and explain what
7 your notes reflect and what your recollection is of what you
8 learned?

9 **A.** Sure. So work issues -- number one, the work issues,
10 Chad said that, "Hacene had shared that he discussed
11 lab-related issues with Lisa during their one-on-one
12 meeting," but Chad had not been involved, so he could not
13 corroborate that they actually had happened.

14 **Q.** So you understood that Chad was saying he didn't have
15 anymore information on that?

16 **A.** Right. Chad is saying Hacene actually discussed it,
17 according to the discussions him and Hacene had, but Chad did
18 not sit in on those one-on-ones where Hacene would have been
19 sharing that information directly with Lisa.

20 **Q.** And understanding that your role is in HR and not working
21 in the lab, do you understand what Gedeon Richter, NGSP, BMS,
22 and G SK are?

23 **A.** They're clients.

24 **Q.** Clients of PPD's?

25 **A.** Clients of the Central Lab.

1 **Q.** And moving down to number two, can you explain what you
2 learned from Chad in connection with that?

3 **A.** "So not invited to participate in recruiting events." So
4 from Chad's perspective, Dr. Fikry was concerned about the
5 amount of time that it was taking to fill certain roles
6 within the lab, and shared with Chad that there was a
7 concerted effort to reduce Lisa's role in that process, based
8 on her specificity, the needs of the role. And then Chad was
9 in that meeting, and -- where Dr. Fikry shared that and then
10 counselled Hacene to share that with Dr. Menninger directly.

11 Chad shared that Lisa had expressed high work loud,
12 and that Hacene felt that not involving her in recruiting
13 would be helping her workload issues. And Hacene had
14 indicated that he had shared that directly with
15 Dr. Menninger.

16 **Q.** The next item, number 3, "New expectation to attend bid
17 defense and client visits," and being asked to speak about
18 topics that she is not knowledgeable and it lists some
19 topics?

20 **A.** And again, Chad -- yes.

21 **Q.** What did you learn from Chad about that?

22 **A.** Chad, in leadership team meetings, knew about it, but he
23 was not party to all the discussions.

24 **Q.** Number four, "Not invited to 2018 sales/marketing routine
25 meetings. Asked to have meeting request forwarded but has

1 not happened."

2 **A.** Chad didn't have any knowledge of that.

3 **Q.** What about number five, the town hall with -- and I'm
4 going to mispronounce it again --

5 **A.** Sharbaugh. So the town hall with Sharbaugh, the town
6 hall was one where we had -- Hacene had decided to bring in a
7 client to speak with the entire Global Central Lab
8 population. It was a very purposeful and focused meeting,
9 and there were no introductions of our chief operating
10 officer to anyone who was in the Highland Heights office, and
11 Chad, who had attended that meeting, was saying that that was
12 how it played out.

13 **Q.** And understanding that -- you said no formal intros for
14 anyone in your notes here, you've just expanded on that
15 further. Did you -- do you have a memory of additional
16 information that you learned from Chad that's not necessarily
17 written verbatim in these notes?

18 **A.** Yeah, I didn't type every single word that everybody
19 said, so, yeah, there would be, maybe, nuggets here or there
20 that would not exactly be included.

21 **Q.** Number 6, it says, "2017, no performance review
22 discussion, not much commentary in the review, but lower
23 ratings."

24 Do you see that?

25 **A.** Yes.

1 **Q.** And then there's a note below with (a), it says "Chad,"
2 and then it explains what you learned. Can you explain that?

3 **A.** So again, Chad working with Hacene confirmed that Hacene
4 did talk to her about her performance, about her goals and
5 behaviors, but not in the exact review form itself. No
6 formal conclusion to the review.

7 **Q.** And number 7 is, "Discussion of exit package or
8 consulting role during the review of accommodations." And
9 we'll flip to the next page to see what your notes say there,
10 where it says (a). Can you explain to the jury what you
11 learned from Chad, what you recall learning from Chad about
12 that item?

13 **A.** Yeah. So when I asked Chad who was in the meeting
14 talking about accommodations for Dr. Menninger, he indicated
15 that the meeting was unproductive -- let me make sure I read
16 this -- that there didn't seem to be a good exchange of how
17 can we support you. And again, it's not listed here, but the
18 way Chad described it to me directly was it was a back and
19 forth. Lisa indicating, "I can do my job," but then having
20 doctor's notes that say she couldn't do certain things to
21 exacerbate her condition. And it just kept going back and
22 forth and back and forth, and Lisa kept saying, you know,
23 "What if I can't do my job? What if I can't do my job?"
24 Chad felt compelled to fill in the blank of, well, you know,
25 hypothetically maybe we could look into a consulting

1 agreement, like we did with Dr. Tadeo, or we could -- you
2 know, maybe an exit package, just trying to move the
3 conversation along, is how Chad described it.

4 **Q.** You just mentioned Dr. Tadeo, is that where it says
5 "Frank Tadeo, consulting"?

6 **A.** I'm sorry. Yes.

7 **Q.** And can you just explain for the jury what that means?

8 **A.** So Dr. Frank Tadeo worked for an acquired business in
9 Pennsylvania. The company decided to divest or sell that
10 piece of the business, but we wanted to retain the
11 intellectual knowledge that our employees are really, you
12 know, talented employees. So Dr. Tadeo was asked to move to
13 our Virginia facility, where we were going to move the
14 vaccine testing. And Dr. Tadeo decided he didn't want to
15 relocate, for whatever reason. And of course, relocating to
16 the Virginia office was important to conduct work and set up
17 the vaccine lab and to be available to consult with our
18 employees. We entered into a consulting agreement with
19 Dr. Tadeo.

20 **Q.** In the last sentence of your notes here, Deb, it
21 says, "How can she service the licensure and still work
22 effectively?"

23 **A.** Yeah. Chad -- with Dr. Menninger holding our licensure
24 and, again, the uncertainty of what she needed from an
25 accommodation perspective, you know, she is our licensure

1 holder. We are dependent upon her credentials to do the
2 business that we conduct. And if she's unable to perform
3 certain key components of her job, how does that -- how does
4 that affect our organization?

5 **Q.** Let's look at the next page of your notes. These are
6 from May 7th. And they say at the top, "Discussion with
7 Hacene Mekerri"?

8 **A.** Correct.

9 **Q.** And these are your notes?

10 **A.** Yes, they are.

11 **Q.** Did you have a conversation with Mr. Mekerri on May 7th?

12 **A.** Yes, I did.

13 **Q.** And like you did with the earlier notes, can you walk us
14 through what you discussed with Mr. Mekerri and what you
15 learned?

16 **A.** Sure. So the first one, you know, issues with clients,
17 Hacene confirmed he had discussions verbally with both
18 Dr. Menninger and her team about the challenges. The current
19 issues happened close together and are very concerning. They
20 are more severe than historical, in terms of impact to our
21 clients. One led to an employee termination. And a critical
22 event, which I believe the process required notifying senior
23 leaders of our -- senior executives of our organization when
24 critical events happen, asked her for an executive summary in
25 the corrections that she was making, specifically related to

1 those clients.

2 There was a new issue not raised in the past, which
3 was GSK, where samples actually got discarded. Overall
4 business expectation. You know, Hacene is setting overall
5 expectations for the entire business that we need to
6 eliminate or minimize all errors. Lisa canceled the meeting
7 to discussed goals, rather sent a long e-mail. Last week
8 Hacene had discussed goals with her, asked her to send -- or
9 sorry, "last week Hacene had discussed goals with her and
10 asked her to send Hacene revised goals, but nothing was sent
11 from Lisa."

12 So today, May 7, 2018, "asked if she can see other
13 goals at the ED level, her peers. Willing to accommodate,
14 but she said, no, she didn't want to see them, because she
15 didn't want to have to share her own goals and would feel
16 uncomfortable sharing, so agreed not to disclose her
17 colleagues goals at the ED level, which was Clendening and
18 Els Pluymers.

19 **Q.** Were Clendening and Els Pluymers, were those other
20 executive directors at the time?

21 **A.** Yes, for Central Lab.

22 **Q.** And looking back up to some of the earlier things that
23 you noted learning from Mr. Mekerri, it says one of the
24 issues -- after it says the more severe issue than
25 historically, one led to an employee termination?

1 **A.** Yes.

2 **Q.** And did you have an understanding if that was a
3 termination of someone in the lab's kind of sphere of
4 command?

5 **A.** Yes, it would have been a lab individual who was
6 terminated because of their actions working on that
7 particular client were inappropriate.

8 **Q.** The other -- the other thing, it says, "One new issue not
9 raised in the past, GSK, with discarded samples."

10 What else did you learn about that issue in
11 particular?

12 **A.** GSK, significant client, not just for the Central Lab,
13 but for PPD in general --

14 **Q.** Is that GlaxoSmithKline?

15 **A.** Sorry. GlaxoSmithKline. Yeah. Sorry.

16 Yeah, significant issue. Samples are taken from
17 patients. So when a sample is discarded, it's very
18 concerning. You can't recover that sample. It's just gone.
19 So again, not a normal error, not a typical error.

20 MR. HANNON: Objection.

21 THE COURT: What's the objection?

22 MR. HANNON: There's no foundation as to any
23 personal knowledge of normal or -- actually, no foundation as
24 to how she got that knowledge. Speculation.

25 THE COURT: Overruled, but maybe you should lay a

1 little more foundation for it.

2 BY MS. MANDEL:

3 **Q.** Deb, backing up a little bit on the GlaxoSmithKline --
4 maybe I should just call it GSK -- discarded sample issue.
5 Aside from your notes here and your meeting with Mr. Mekerri,
6 did you have occasion, within HR, to know about this
7 incident?

8 **A.** I would, yes, when they are significant events, I would
9 be made aware from an HR perspective through discussions with
10 senior leaders in leadership team meetings, yes.

11 **Q.** And when you say "significant events," can you explain
12 what a significant event is?

13 **A.** So there are minor errors that occur in, you know,
14 manual -- manual interaction with conducting testing, you
15 know, wrong -- a wrong amount of solution goes in, what have
16 you. But disposing of a sample is considered a -- you know,
17 is definitely a major -- a major and critical event in any
18 lab.

19 **Q.** And over your years working in HR, supporting the lab's
20 business, have you come to be aware of -- I think you used
21 the term "major" or what was the --

22 **A.** Critical event.

23 **Q.** Critical event. Have you come to become aware of other
24 critical events in the lab?

25 **A.** Yes.

1 **Q.** Do you recall what you learned in your HR role about this
2 particular critical event involving GlaxoSmithKline?

3 **A.** So I learned about this from an HR perspective, because
4 again, not a -- a critical event, not typical, and it would
5 have included a discussion with HR about remediation. How do
6 we -- how do we correct this? How do we look at this
7 particular situation? And also aware because, again, GSK, a
8 very large client, for not only the Central Lab, but for all
9 of PPD, there was, I believe, senior executives needed to
10 speak with members of GSK, to just make sure we're
11 maintaining that relationship, and reassuring them that we do
12 have a quality mind and we are continuing to work effectively
13 for their product.

14 **Q.** And within your role in HR, being aware of this as a
15 critical event, as far as you know, was Dr. Menninger
16 disciplined in any way?

17 **A.** No.

18 **Q.** As far as you know, did Dr. Menninger receive any type of
19 warning in connection with this?

20 **A.** No.

21 **Q.** And looking again at the last -- the last sentence of
22 this paragraph of your notes, can you just explain what it
23 meant? It says, "Didn't want to share her own, or would feel
24 uncomfortable sharing, so did not agree to disclose
25 Clendening and Pluymers' goals." What you learned from

1 Mr. Mekerri about that?

2 **A.** So Mr. Mekerri, again, based on the quality events was
3 looking to change goals. We were seeing some issues coming
4 out of the lab, appearing to be a little more egregious than
5 historic, wanting to change goals for 2018 around quality,
6 and working -- giving that feedback to Lisa, or
7 Dr. Menninger, apologies -- her wanting to see goals from
8 other executive directors on what does that goal look like?
9 How is it worded? And Hacene said, you know, I'm happy to
10 accommodate that. I'm happy to share with you what their
11 goals are, but I would feel it would be fair for me to share
12 what your goals are, as well, so we can all be, you know,
13 aligned as a leadership team. But Dr. Menninger didn't feel
14 comfortable sharing her goals, so it wasn't -- it wasn't
15 shared amongst the executive directors.

16 **Q.** Number two -- and number two is just copying over the
17 concern that had been raised; is that right?

18 **A.** Correct.

19 **Q.** Number 2, you then, below, have information from
20 Mr. Mekerri; is that right?

21 **A.** Correct. So Hacene basically said, you know, obviously,
22 had no conscious effort to exclude her in the interview
23 process. He indicated she had been involved and aware of the
24 candidates. She was made aware of Patrick Mann's hiring, not
25 directly involved with hiring Narine or Patrick, but she

1 certainly was made aware, that Dr. Menninger expressed
2 concern about her workload, and that this was one area to
3 help her work/life balance.

4 He had a verbal conversation with Lisa about the
5 role in recruiting, and with her stating that she felt
6 overwhelmed, he took on the initiative to recruit for her.

7 **Q.** And given what you learned from Mr. Mekerri here, did you
8 have any reason, from an investigation standpoint, to be
9 concerned that there was a problem like Dr. Menninger had
10 raised to you?

11 **A.** On face value, Dr. -- or Mr. Mekerri, you know, he was --
12 he was empathetic to Dr. Menninger. He -- you know,
13 empathetic to her situation, allowed her to move to
14 Massachusetts. He -- you know, wanting to help her lessen
15 the workload. This, on face value, made sense, but I didn't
16 take it at face value. I certainly asked recruiters. You
17 know, Chad concerned that Dr. Fikry is asking for this to
18 move along swifter. So there was more data that said, you
19 know, Hacene is acting in the best interest of his employee
20 to be helpful, but others said, yeah, this is -- I assume
21 we're going to get to the others, too, but there were others
22 who said, yeah, that was exactly what was happening.

23 **Q.** And just to be clear, when you said that Mr. Fikry had
24 said -- or Dr. Fikry said he wanted this to move more
25 swiftly. What was it that you understood Dr. Fikry wanted to

1 move more swiftly?

2 **A.** One particular role had been open for a number of months,
3 I believe for almost a year. And he wanted that position to
4 be more swiftly filled.

5 **Q.** Looking down at number three, again, this repeats
6 Dr. Menninger's concern. In your notes below, you reflect
7 information that you learned from Mr. Mekerri; is that right?

8 **A.** Correct.

9 **Q.** And I'll flip to the next page when you're ready. But
10 can you explain what is on the bottom of this page that you
11 learned?

12 **A.** So, again, Hacene saying this is not a new -- so
13 attending bid defenses and client visits is not a new
14 expectation. Perhaps it -- it -- you know, at her level she
15 needs to be involved in these activities to support the
16 growth of the business.

17 Chris Clendening, working directly with clients
18 weekly in his executive director role in project management.
19 The sales numbers were very low in 2017, commercial sales,
20 and high expectations for the entire organization of Central
21 Labs in 2017.

22 **Q.** And can you explain a little bit more? You said that
23 Chris Clendening was an executive director, as well?

24 **A.** Correct.

25 **Q.** And based on your role in HR, what did you understand at

1 that time that Chris Clendening's, like, sphere of
2 responsibility was?

3 **A.** He was the executive director of project management, so
4 conducting the studies, and he, during this time period, was
5 working with clients directly. He was traveling and meeting
6 with clients, visiting clients, you know, selling our
7 business, basically.

8 **Q.** And why was that significant for you to note as part of
9 your response on number 3 about the new expectation?

10 **A.** Again, not a new expectation for the role. And if
11 Dr. Menninger felt that she was being treated differently
12 than others, you know, we have Chris Clendening doing it, so
13 it's not that she is being asked to do something that others
14 aren't doing, as well.

15 **Q.** And so -- end of that page, it says, "Bringing in new."
16 And then let's flip to the next page. And it
17 says, "Technologies in US/Europe APAC." Do you see that?

18 **A.** Yes.

19 **Q.** "Asked her to understand these new capabilities and help
20 sell. Revenues not on target yet, so need everyone pulling
21 their weight."

22 Can you explain what you understood Mr. Mekerri to
23 be saying in that part of your notes?

24 **A.** Yes. So part of the commercial effort to raise sales of
25 our business is to invest in new technologies. And that was

1 happening both in our US and EMEA, or Europe and APAC
2 regions. And certainly with Dr. Menninger's licensure and
3 knowledge, really needing her to, you know, be able to be in
4 a position to sell these new technologies, which could in
5 turn become a more solidified client base. We could secure
6 more clients based on this new technology.

7 **Q.** And what do you recall Mr. Mekerri explaining to you to
8 reflect in the last sentence of that paragraph that "revenue
9 is not on target yet"?

10 **A.** So as a for-profit business, revenue is very important.
11 You sell your work. Revenue turns into the work that you
12 perform, and then profitability is how well you do executing
13 that work in the streamlined fashion. So revenue is really
14 the way that we measure, you know, success, financially, in
15 our business. If we don't meet revenue targets, we are
16 unable to provide benefits and pay and bonuses and support
17 the company's desires to grow in research and development,
18 and investing in, you know, employees. So it's very
19 important that revenue is a top of mind opportunity for
20 leaders to really, you know, sell our business and make us
21 profitable.

22 **Q.** And after you learned this information from Mr. Mekerri
23 during your investigation and meeting with him, what did that
24 lead you, if anything, to conclude about the concerns
25 Dr. Menninger had raised?

1 **A.** They are an essential function of her job. Perhaps it
2 wasn't a focus during 2017, but it was certainly an ask to
3 focus for 2018. It was a part of her job. Hacene was asking
4 other leaders across the business to perform this same type
5 of activity, so it didn't -- it was not where she was being
6 treated differently from this ask of her boss.

7 **Q.** Down below in the next item, number four, it says, "Not
8 invited to 2018 sales marketing routine meetings, asked to
9 have meeting requests forwarded, but that has not happened."

10 That was Dr. Menninger's concern, again, listed out
11 here?

12 **A.** Correct.

13 **Q.** And did you ask Mr. Mekerri about that?

14 **A.** I did. And the 2018 sales and marketing routine meetings
15 are hosted by Andrew Supp or Andy Supp, who at the time was
16 the commercial leader for Central Labs. So it was his
17 meeting, his determination of the attendee list. Hacene, who
18 is aware of those meetings, indicated that Dr. Menninger is
19 not included on the week's meeting, but she has three members
20 of her team who are invited, and his understanding is that he
21 would expect her direct reports to report back to her and the
22 team any significance from those meetings.

23 **Q.** And in the last sentence, you note, "No request from her
24 to have her added."

25 **A.** Right. So Hacene indicated he hadn't received any

1 request from Dr. Menninger to attend those meetings.

2 **Q.** Okay. And back in the first sentence of that, that
3 little section, it says, "Andy Supp's meeting held biweekly,
4 marketing log call"?

5 **A.** Yes.

6 **Q.** What did you mean when you wrote that? Or what did you
7 learn from Mr. Mekerri that led you to write that?

8 **A.** So as Hacene described it, Lisa said none of the 2018
9 sales meetings/marketing routine meetings -- the marketing
10 routine meetings were called the marketing log call. So it's
11 the same meeting.

12 **Q.** It's referring to that same meeting that Dr. Menninger
13 had raised?

14 **A.** Exactly.

15 **Q.** Right. In number five, the town hall concern?

16 **A.** Yes. So Hacene -- you know, again, like Chad said, there
17 were no formal introductions. Mark is the representative
18 from Pfizer, another client of the Central Lab and PPD in
19 general. Hacene introduced the client representative, but
20 there were no other formal introductions made. So it didn't
21 exclude Dr. Menninger.

22 **Q.** And just backing up, can you explain a little bit more
23 about what you understood the concern to be here in number
24 five, and then what you were trying to get from Mr. Mekerri
25 to understand more about it?

1 **A.** So when discussing Dr. Menninger's concerns, she was
2 concerned that she was being excluded. She was remote, I
3 believe, traveling back to Highland Heights to attend this
4 particular town hall, and that she wasn't introduced, she
5 wasn't -- introduced to either the audience or the members,
6 the participating members, Bill Sharbaugh, who's the chief
7 operating officer. That was her concern about being treated
8 differently. Her boss, Hacene, is saying that, as well as
9 Chad, that there were really no formal introductions made to
10 anyone during this town hall, and our visit by our COO, and
11 the representative from a client.

12 **Q.** The next item, number six, about the 2017 -- the previous
13 year's performance review. Can you explain what you learned
14 from Mr. Mekerri about this item?

15 **A.** Hacene indicated that he did have a conversation with
16 Dr. Menninger. He did not include an official document. The
17 discussion went okay, but not an easy discussion, in his
18 opinion.

19 He shared feedback that he gathered on a 360
20 review. It was -- that was a good and constructive
21 discussion. And he had gathered 360 feedback on not just
22 Dr. Menninger's direct reports, but others -- others of his
23 direct reports.

24 **Q.** And did you understand from Mr. Mekerri when these
25 conversations happened that he was talking about?

1 **A.** These conversations happened in 2017.

2 **Q.** And did you have an understanding, based on your
3 discussion with Mr. Mekerri, about what it meant that it was
4 not an easy discussion?

5 **A.** Again, I believe, based on some of the -- the client
6 quality challenges, the -- giving, you know, Dr. Menninger,
7 that feedback was not an easy discussion to have.

8 **Q.** Number seven, "Discussion of exit package and/or
9 consulting role during review of accommodations." Can you
10 explain what you learned from Mr. Mekerri during your
11 investigation about this item?

12 **A.** So this was a meeting where Dr. Menninger was in Highland
13 Heights, attending with Chad and Hacene, to talk about
14 accommodations. Through Hacene's perspective, they were
15 talking about her next step in the future of her role. He
16 didn't recollect discussing a package or a new role. He
17 recalls questioning her on what she wanted to do going
18 forward, what she wanted to do in terms of her
19 accommodations. There was misalignment in agreeing on a path
20 forward. There was a high level discussion on alternative
21 options, but the general direction -- general direction, but
22 nothing firm or specific to her, predicated on her or PPD not
23 being able to accommodate her.

24 **Q.** In your role doing an investigation here, Deb, did you
25 have a concern about Dr. Menninger having one perspective

1 about what had happened during that conversation and
2 Mr. Mekerri and Mr. St. John having a different perspective
3 on what happened during that conversation?

4 **A.** Yes.

5 **Q.** Can you tell us more about that?

6 **A.** So certainly in interactive dialogue discussions, it's
7 important for everybody to be aligned and understanding what
8 we're working towards. And with misalignment, it's
9 concerning that, you know, both parties are not aware of our
10 next step and where we go forward. And it's -- the lack of
11 clarity is definitely concerning.

12 **Q.** And were you also concerned about just different
13 understandings by the people in the meeting about what
14 happened in the meeting, and especially Dr. Menninger's
15 concern that, you know, she had complained about what
16 happened in the meeting? Did you have concerns about that?

17 **A.** Yes.

18 **Q.** Coming out of this meeting that you had with Mr. Mekerri
19 about what had happened, what did you think about those
20 different perspectives about what had happened in that
21 meeting?

22 **A.** So Chad is saying there was, you know, discussion where,
23 you know, Dr. Menninger was, you know -- what happens if I
24 can't do my job? What happens if I can't do my job? Hacene
25 saying he doesn't have recollection of that. We heard, you

1 know, Dr. Menninger's perspective that the meeting started
2 with options. So it's like there's just so much confusion,
3 how do we move forward? Very concerning that there were
4 three distinct perspectives coming out of that meeting and no
5 validation of what truly happened.

6 **Q.** And as of this point, if we go back to May of 2018, in
7 your sort of official capacity, in your role in HR, did you
8 have any knowledge of a concerted plan to move Dr. Menninger
9 out of her position at that point?

10 **A.** No.

11 **Q.** And at any point did you become aware of a concerted plan
12 to move Dr. Menninger out of her position?

13 **A.** There was discussions around -- again, Lisa's request for
14 accommodation, her being remote, this uncertainty about where
15 we go, uncertainty about, you know, coverage. There was
16 concern for, certainly, however, whatever happens, do we have
17 coverage for our lab from a licensure perspective.

18 **Q.** Let's look at the next page of your notes. These are
19 from a few days later, on May 11th. And these
20 say, "Discussion with Andy Supp."?

21 **A.** Yes.

22 **Q.** And it says, "executive director of BD Central Labs"?

23 **A.** Yes.

24 **Q.** And is BD business development?

25 **A.** Business development. The commercial team, the sales

1 team.

2 **Q.** And this page of notes only has one area of concern that
3 had been raised, right? It only has that number four?

4 **A.** Correct.

5 **Q.** Is that the only topic that you spoke about with
6 Mr. Supp?

7 **A.** That's correct.

8 **Q.** And why is that?

9 **A.** Because all of the other issues that Dr. Menninger raised
10 were irrelevant to Andy's role. Andy would have no
11 information or be able to contribute to any of those other
12 topics. So it's specifically solely related to the sales
13 meeting that he is the -- the owner and the host of.

14 **Q.** And can you describe what you learned from Mr. Supp
15 during your meeting with him?

16 **A.** So Andy, you know, as the owner and facilitator of that
17 meeting, you know, he sends out the meeting requests. So he
18 monitors the distribution list of who's the invitee list.
19 Apparently, it's a pretty large group, make sure that anyone
20 who's left the company is removed. He periodically reviews
21 it to add new members as the organization grows and changes.
22 And he certainly wants to make sure that it's a value add for
23 everybody, so if there's multiple members from each team,
24 that he calls that out, as well.

25 He did -- he worked with the departments, including

1 managers, to determine the appropriate representation. That
2 was a specific marketing and routine meetings for the annual
3 sales meeting in 2018. Andy worked with Hacene to make sure
4 they had the best participants outlined and identified.

5 **Q.** And let me just pause you right there, it says in
6 parenthesis, "(First week of March in WILM)."

7 What does that mean?

8 **A.** First week of March in Wilmington, North Carolina, which
9 at the time was the corporate headquarters for PPD.

10 **Q.** So your understanding is that this annual sales meeting
11 had taken place in Wilmington?

12 **A.** Correct.

13 **Q.** And that was in March of 2018?

14 **A.** Correct.

15 **Q.** Okay. Thank you. Go ahead.

16 **A.** So in advance, Andy had worked with Hacene to determine
17 the best participants at that meeting. They discussed
18 content and breakout sessions. And I've attended the sales
19 meeting, so it's a meeting that talks about, you know, what
20 is our sales focus for this year, how do we go after more
21 clients, how do we make sure we solidify those that we
22 currently have in-house. And then there's break outs. We
23 have different divisions of PPD. The labs would break out
24 and talk about lab related activities. And it's like a topic
25 every year would be determined to be, you know, a critical

1 one for that particular sales year. So Andy and Hacene
2 worked out what that particular breakout session would be and
3 who best to represent that. And because it was based on new
4 technologies, Hacene and Andy determined that Chris
5 Clendening would be the best participant for that particular
6 breakout session.

7 **Q.** And that was another executive director working within
8 the labs business?

9 **A.** Correct. So Chris Clendening attended the sales meeting
10 in 2018, just for the breakout session. He didn't attend the
11 entire sales meeting. And no one -- no other participants
12 from the Central Lab were participate -- had participated in
13 that meeting.

14 **Q.** And just to be absolutely clear, because it's now sort of
15 coming out of the pandemic, did you have an understanding as
16 to whether this was an in-person meeting in March in
17 Wilmington, North Carolina?

18 **A.** Yes. Yes, they were -- yes. Up until the pandemic, they
19 were all in person.

20 **Q.** Okay. And just to go back to that last sentence, no
21 others from Central Labs participated as key to the meeting,
22 or vetted as key to the meeting. What was -- in your view of
23 doing the investigation, what was the significance of that
24 statement?

25 **A.** Again, Lisa felt that she was being treated differently

1 by her manager, but in this case, she wasn't. She was
2 considered to be a participant in these breakout sessions,
3 just like all the other leaders, based on the topic of this
4 year. Chris Clendening was the subject matter expert to
5 participate in that and no other participants from Central
6 Lab participated, inclusive of Dr. Menninger.

7 **Q.** And coming out of this discussion with Mr. Supp on May
8 11th, did you make any preliminary determinations about what
9 Dr. Menninger's concern had been with regard to being
10 excluded from that meeting?

11 **A.** Yes. So she wasn't excluded because of her disability.
12 She was excluded because she wasn't the subject matter expert
13 for that particular year, just like her colleagues, everyone
14 else was excluded because of -- you know, they weren't at the
15 subject matter experts that contributed to this meeting. She
16 wasn't treated any differently than any other leader or
17 member of the Central Lab.

18 **Q.** We'll jump to your next -- we'll jump to your next page
19 of notes. Here it says, "Talking points by phone." And
20 there's not a date or sort of introduction at the top of
21 these notes. Are these also notes that you typed, Deb?

22 **A.** No. These notes were provided by our legal department.

23 **Q.** Okay. Are these notes that reflect a conversation that
24 you had with Dr. Menninger?

25 **A.** These are the notes -- yes. These are the talking points

1 that I shared with Dr. Menninger at the conclusion of the
2 investigation.

3 **Q.** And these were -- were these talking points that you're
4 consulting as sort of an outline of that discussion?

5 **A.** Correct.

6 **Q.** Did they reflect information that you, yourself, had
7 learned during the investigation?

8 **A.** Yes. I had conducted the entire investigation and worked
9 with our legal department to draft the talking points.

10 **Q.** And jumping to the next page of your notes, they're dated
11 May 15th?

12 **A.** Yes.

13 **Q.** And these were notes that you took, Deb?

14 **A.** Correct.

15 **Q.** And it says, "Discussion with Brent Mann, senior
16 recruiter."?

17 **A.** Yes.

18 **Q.** Can you just describe Brent Mann's role, as far as you
19 understood it at that point, in 2018?

20 **A.** So Brent Mann was a -- or is a member of the human
21 resource team. He -- his function or purpose is to recruit.
22 So he's a recruiter that supported our Central Lab business
23 at the time and was the one who was recruiting for the
24 specific roles that Dr. Menninger said she was excluded for.

25 **Q.** And why did you speak to Mr. Mann?

1 **A.** Again, Dr. Menninger feeling like she was excluded,
2 Hacene indicating that he had conversations with Lisa, with
3 Dr. Menninger. But verbally discussing them, I wanted to,
4 again, ensure that the conversation actually did occur, so
5 it's another data point to say this actually occurred.

6 So I did bring Brent into the investigation, talked
7 about confidentiality, shared -- you know, very important for
8 him to share factually, honestly with me, and I would not be
9 getting back to him with any results, that this was just an
10 information sharing discussion. When I talked to Brent, he
11 confirmed that there was a meeting in December of 2017,
12 between Hacene, Chad St. John, Brent Mann, the recruiter, and
13 Dr. Fikry. It was mutually agreed that Hacene would become
14 the hiring manager and requirements for the opening would be
15 reviewed for better candidate alignment with business needs.
16 There was a slow process that had occurred previously.

17 After one year of the position being opened,
18 Dr. Fikry wanted Hacene to take it over to get it filled on a
19 swifter pace. From Brent's vantage point, that Dr. Menninger
20 was selective about her candidates and sought to find the
21 perfect one at the expense of filling this important role.
22 Didn't evaluate the candidates from a learned skill, versus
23 one that necessary to hire. And what that means is hiring a
24 candidate who you could spend time developing and coaching
25 and helping them develop skills, versus one that's inherently

1 exhibited by the candidate when they are hired.

2 **Q.** And at the first line of those notes, it says, "Confirm
3 meeting occurred on December 12, 2017."

4 Why did you note that?

5 **A.** Again, excuse me, Dr. Menninger was saying she was being
6 treated differently because of her accommodation request.

7 This meeting occurred well in advance of Dr. Menninger
8 disclosing her -- disclosing her need for accommodation.

9 **Q.** Did you reveal to Brent Mann that Dr. Menninger had
10 brought forward a disability request?

11 **A.** No.

12 **Q.** In fact, did you reveal that to any of the people that
13 you spoke to in connection with this investigation?

14 **A.** No.

15 **Q.** Did Mr. Mann report to you in HR?

16 **A.** No, he did not.

17 **Q.** In your role in HR, did you share with the other spheres
18 of HR, such as recruiting, that Dr. Menninger had brought
19 forward a disability accommodation request?

20 **A.** No.

21 **Q.** When you spoke with Mr. Mann, did Mr. Mann say anything
22 that led you to believe that Mr. Mann was aware that
23 Dr. Menninger had made a disability accommodation request?

24 **A.** No.

25 **Q.** You say in the third and a half line, before the end, it

1 says, "Brent's opinion is that Lisa Menninger was overly
2 picky with candidates."?

3 **A.** Yes.

4 **Q.** Do you have a recollection, as you sit here, if "overly
5 picky" was a term that Mr. Mann used?

6 **A.** Yes, that's what he would -- he used.

7 **Q.** On the next page of your notes, these you took on
8 May 17th. Is that accurate?

9 **A.** Yes.

10 **Q.** And it indicates discussion with Brent McKinnon?

11 **A.** Yes.

12 **Q.** And next to his name it says "ED QA."

13 **A.** Executive director of quality assurance department.

14 **Q.** And is Brent McKinnon someone else with whom you spoke as
15 part of your investigation?

16 **A.** That's correct.

17 **Q.** And you have just one of the issues raised by
18 Dr. Menninger is listed here in your notes?

19 **A.** Correct.

20 **Q.** Why did you discuss only one of the concerns with
21 Mr. McKinnon?

22 **A.** Brent is our QA executive. All the other issues that
23 Lisa, or Dr. Menninger, raised were irrelevant to Brent. He
24 wouldn't have had any significant contribution to any of the
25 other situations. So, again, protecting confidentiality,

1 making sure we just wanted to get the data around the
2 quality. Brent had the best information for me to
3 investigate this particular issue that Dr. Menninger raised.

4 **Q.** During your discussion with Mr. McKinnon on May 17th, did
5 you indicate to Mr. McKinnon that Dr. Menninger had revealed
6 a disability at any point?

7 **A.** No.

8 **Q.** Did you tell Mr. McKinnon at any point during this
9 meeting that Dr. Menninger had sought a disability
10 accommodation?

11 **A.** No.

12 **Q.** Did Mr. McKinnon say anything during this meeting that
13 led you to believe that Mr. McKinnon had any awareness of
14 those facts?

15 **A.** No.

16 **Q.** So you listed that concern number one?

17 **A.** Yes.

18 **Q.** And beneath that, you have some information noting what
19 you learned from Mr. McKinnon?

20 **A.** Yes.

21 **Q.** Can you describe for the jury what you learned from
22 Mr. McKinnon about this issue?

23 **A.** So Brent indicated that there was a consistent
24 application minor, major, and critical events across
25 functions, meaning there were issues across the entire

1 organization, that currently there was a lack of
2 accountability by the business for all functions to really
3 work to closing those events timely.

4 **Q.** Can you explain what that means, as far as you
5 understand, based on what McKinnon said to close events
6 timely?

7 **A.** So to close an event, I believe, that they have to be
8 resolved in order to submit the results from the testing to
9 our clients. If events remain open, it delays either getting
10 the results to our clients and/or concluding the testing in
11 which to, you know, bill our clients and be paid for that
12 particular work. So these events are pretty important to be
13 timely closed.

14 **Q.** And just to pause there for one moment, an event, what
15 type of event?

16 **A.** It could be any error, any deviation, results don't --
17 results don't come in at the expected range. Anything that
18 doesn't go according to our standard operating procedures or
19 an assay, the method in which you use to conduct that work.

20 **Q.** Okay. I'm sorry, so go ahead, please, walking us through
21 what you learned from Mr. McKinnon.

22 **A.** So Brent confirmed that Hacene, through leadership team
23 meetings, is asking everyone across the Central Lab to give
24 closing of these events priority, and really working to close
25 them in a timely fashion, and that ongoing, there's going to

1 be quarterly meetings to discuss appropriate attention to
2 ensure that we keep an eye -- that they're keeping an eye on
3 closing these events timely.

4 Brent is -- indicated he is going to send e-mails
5 if he received this information and when. Brent went on to
6 say that they were currently, with our larger client
7 GlaxoSmithKline, five CAPAs, corrective action, preventative
8 action, and that are categorized as major events within
9 central management and the lab groups. And then Brent
10 expressed concern with the data in three specific categories.

11 **Q.** And a couple lines up, you read that Mr. McKinnon is to
12 send you e-mails of who received this information and when.
13 And do you recall, Deb, if that actually happened?

14 **A.** Yes, I believe he did send me the documents, yes.

15 **Q.** And did you review those documents as part of your
16 investigation?

17 **A.** Yes.

18 **Q.** Okay. And so then you said that Mr. McKinnon expressed
19 concern with data in certain categories?

20 **A.** Correct.

21 **Q.** Okay. And just generally, what did you understand those
22 categories to be?

23 **A.** Lack of accountability, holding employees accountable to
24 the timeliness of completing these events, lack of oversight,
25 and not acting with a sense of urgency within the

1 laboratory-based areas, leaders not necessarily doing rounds
2 and ensuring proper processes are followed while the testing
3 is being conducted, that he had shared that with Hacene
4 multiple times. And then the third point was training was
5 not consistent or completed timely, and it's important to do
6 training because our clients can ask if our employees are up
7 to date with their learnings and their training, so it's
8 important to have the trainings completed timely, as well.

9 **Q.** And did Mr. McKinnon indicate to you that these areas of
10 concern with the data in these three categories was something
11 specific to Dr. Menninger?

12 **A.** No. He was -- he was speaking to quality across all of
13 Central Lab, but also speaking to, you know, areas where he
14 saw concerns. I mean, there's sample management had some
15 concerns, as well as the laboratory based groups, there was
16 concerns.

17 **Q.** And in the last paragraph, can you explain what you
18 learned from Mr. McKinnon that you reflected there in your
19 notes?

20 **A.** So as the quality assurance director, he's going to
21 continue, obviously, to raise awareness. Brent doesn't
22 report into the business, he collaborates with the business
23 on the quality area.

24 He also cited that the current structure of the lab
25 group, where the Brussels leader reported it to

1 Dr. Menninger --

2 **Q.** Is that Lorraine --

3 **A.** Lorraine McNamara, sorry. Lorrain McNamara, Brussels
4 site, had reported it to Dr. Menninger, and Narine -- I can't
5 pronounce her last name, either, reporting to Hacene is
6 causing concern that there's not, you know, an overall
7 unified direction for the overall lab business.

8 **Q.** Did you make any initial conclusions about this
9 particular set of concerns after meeting with Mr. McKinnon on
10 May 17th?

11 **A.** It certainly felt better that there was an expectation
12 for quality being raised across all of the Central Lab. It's
13 not just targeted at the labs. It felt better that, you
14 know, Brent is having conversations with Hacene, and everyone
15 is being held accountable to raising the level of quality
16 across their business.

17 THE COURT: I'm going to pause you here and we'll
18 take the morning break.

19 Ladies and gentlemen, all rise for the jury.

20 (The jury exits the courtroom.)

21 THE COURT: All right. We'll resume in 15 minutes.

22 MR. HANNON: Your Honor, we had spoken yesterday,
23 we might need to take a witness out of order. We have Lisa
24 Hart, Dr. Menninger's -- I'm sorry, not Lisa Hart, Tonya
25 Hart, Dr. Menninger's sister.

1 THE COURT: Why don't we do that after the break
2 when we come back. And then we'll take her, and we'll pause
3 Ms. Ballweg's testimony. We'll finish her and then we'll
4 resume with Ms. Ballweg.

5 MS. MANDEL: Your Honor, could we just -- this
6 particular document. Could we just finish looking at this
7 particular document?

8 THE COURT: How many more pages are there?

9 MS. MANDEL: We're like the third-to-last page.
10 We're close. I think that would just make a little more
11 sense, and then pause.

12 THE COURT: Are the three pages long or short
13 pages?

14 MS. MANDEL: They're not short, but I think that it
15 will just give us a more logical place to pause.

16 THE COURT: I'll tell you what, you're like a half
17 our with her?

18 MR. HANNON: Correct.

19 THE COURT: And you're about a half hour with her?
20 So I'll let you do a little bit, and I'll keep an eye on the
21 clock, but before 12:00, I'm going to pause you anyway --
22 I'll either pause you at the earlier of when you're done with
23 the three pages, or a little before 12:00, just to be sure we
24 finish that witness before 1 o'clock.

25 MR. HANNON: Very good.

1 MS. MANDEL: Thank you.

2 THE COURT: Okay. We'll take a 15 minute break.

3 (Court in recess at 11:13 a.m.

4 and reconvened at 11:30 a.m.)

5 THE COURT: Go get the jury.

6 You can be seated.

7 The witness we're taking out of order, I know it's
8 Dr. Menninger's sister. What's her name again?

9 MR. HANNON: Tonya Hart.

10 THE COURT: Okay.

11 MR. HANNON: I got that right?

12 MS. MENNINGER: Yes.

13 (The jury enters the courtroom.)

14 THE COURT: Go ahead, Ms. Mandel.

15 MS. MANDEL: Thank you, Your Honor.

16 BY MS. MANDEL:

17 **Q.** Deb, after you met with the witnesses in the
18 investigation that you described, did you make conclusions
19 about whether there was reason to be concerned about the
20 items that Dr. Menninger had raised?

21 **A.** No, there was not concern.

22 **Q.** So did you reach a conclusion on each of those items?

23 **A.** Yes. On each item, I reached a conclusion.

24 **Q.** So on the -- and we'll look at some more notes in a
25 moment. Did you communicate those results to Dr. Menninger?

1 **A.** In summary form, yes.

2 **Q.** When you say in summary form, what do you mean by that?

3 **A.** So the talking points that we covered earlier were
4 provided to Dr. Menninger.

5 **Q.** And did you keep notes of the conversation that you had
6 with Dr. Menninger?

7 **A.** The May 15th one were included.

8 **Q.** That was part of your investigation notes?

9 **A.** Correct.

10 **Q.** And then you met with -- did you meet with Dr. Menninger
11 another time to communicate results of what you learned in
12 the investigation?

13 **A.** Yes.

14 **Q.** And if you look at the next page of the exhibit that
15 should be in front of you, it has a date of May 18, 2018?

16 **A.** Correct.

17 **Q.** What do the notes from May 18th, 2018, that are in front
18 of you, what do they reflect?

19 **A.** This is --

20 **Q.** I asked that question badly. So strike that.

21 Did you take the notes that are indicated on the
22 page in front of you on the screen?

23 **A.** Yes, I did.

24 **Q.** And are these notes of a conversation that you had on
25 May 18, 2018?

1 **A.** Yes.

2 **Q.** And who did you have this meeting with on May 18th?

3 **A.** To Dr. Menninger.

4 **Q.** You met with Dr. Menninger?

5 **A.** I'm sorry, yes. With Dr. Menninger.

6 **Q.** Do the notes here -- and there are a couple more pages
7 that we'll look at, do they reflect what you communicated to
8 Dr. Menninger during that meeting?

9 **A.** Yes.

10 **Q.** And I just want to make sure that I have the order of
11 meetings right. You said you met with Dr. Menninger three
12 times. Was this the last of those meetings?

13 **A.** No. There was one additional meeting. I believe --
14 excuse me -- to cover overall summary of findings.

15 **Q.** And is that what happened on May 18th, the overall
16 summary of findings meeting?

17 **A.** Yes, I believe so.

18 **Q.** Okay. So let's go through your notes here. And first of
19 all, do your notes here accurately reflect what you discussed
20 with Dr. Menninger on May 18th?

21 **A.** Yes.

22 **Q.** And so, again, we see those numbered items. Do those
23 reflect the concerns that you understood from Dr. Menninger
24 as part of her complaint?

25 **A.** Yes.

1 **Q.** And so under number 1, you have an (a) and a (b), it says
2 "findings and then communication to Lisa"?

3 **A.** Yes.

4 **Q.** And where it says (a) and (b), it looks like under each
5 number, do you see that?

6 **A.** Yes.

7 **Q.** And do the "findings" reflect what you learned during the
8 investigation?

9 **A.** Correct.

10 **Q.** And what does the "communication to Lisa" reflect?

11 **A.** The information relayed to Dr. Menninger about the
12 investigation and the outcome.

13 **Q.** And that was by you?

14 **A.** By me.

15 **Q.** Okay. So let's go through each of these. So under
16 number one, this is the work issues with Gedeon Richter,
17 NGSP? That one?

18 **A.** Correct.

19 **Q.** And what did you have in the way of findings with regard
20 to that issue?

21 **A.** So the data that I reviewed indicated that there were
22 major quality issues, were more than double from the middle
23 of 2017 to April of 2018 than the prior year of 2016 to 2017.
24 And then the GSK situation specifically raised to a level of
25 executives in Wilmington.

1 **Q.** And then beneath that you indicate what you communicated
2 to Dr. Menninger. Can you explain what that was?

3 **A.** Correct. So I explained all of that to Dr. Menninger,
4 plus with increased events and high visibility issues
5 certainly aligned with added involvement from Hacene.
6 Therefore, it was reasonable for her manager to be talking
7 with her and discussing issues because there was a higher
8 level -- increased number and higher visibility issues
9 occurring before and after the disclosure of her disability.

10 **Q.** Beneath that is -- that's number two, where Dr. Menninger
11 had raised her concern about not being included in
12 recruiting; is that right?

13 **A.** Correct.

14 **Q.** And beneath that, you indicate findings and
15 communications to Dr. Menninger. Can you explain what your
16 findings were with regard to that concern?

17 **A.** So Hacene indicated that he communicated to Dr. Menninger
18 in December of 2017 that he would be the hiring manager for
19 the open position due to the discussion with Dr. Menninger on
20 being overwhelmed with her duties and responsibility, and
21 that he would be taking over that responsibility and that the
22 position -- the process of filling that was taking well over
23 a year, with no viable candidates.

24 **Q.** And what did you communicate to Dr. Menninger about that
25 on May 18th?

1 **A.** So I communicated that finding, plus additionally that
2 during the follow-up discussion, that Dr. Menninger and I had
3 on May 15th, she indicated to me that she had sent -- having
4 sent Hacene a list of responsibilities in November, and at
5 his request, after telling him that Dr. Menninger felt
6 overwhelmed in her job, that he would become the hiring
7 manager, and that this occurred in December for that
8 currently open role. And this all occurred prior to her
9 raising awareness of her disability.

10 **Q.** And the next item down, number three, "New expectation to
11 attend bid defense and client visits."

12 What were your findings in that regard?

13 **A.** Again, this is an expectation that was in her job
14 description, so it wasn't a new expectation. It might be a
15 new focus for this coming year, but it certainly was not a
16 new expectation. And that Hacene had made it very clear
17 sales numbers and revenues were low certainly in 2017. He
18 had high expectations for all of Central Lab leaders,
19 including our business development team, which is inclusive
20 of Dr. Menninger. The go forward strategy, you know, to
21 bring in the new technologies and that -- and that the need
22 to understand these new technologies and to sell that is an
23 expectation for all executive director lab roles across the
24 business.

25 **Q.** And we'll look at the next page now. It says (b),

1 communication to Dr. Menninger, and then it says "Above
2 information."

3 Can you explain what that meant?

4 **A.** So all of that was related to Dr. Menninger in that
5 discussion.

6 **Q.** And then the next item down, number four, about not being
7 invited to the 2018 sales meeting. So you have actually two
8 different sets of findings and then you summarize
9 communication. Can you explain what you found and what you
10 communicated to Dr. Menninger?

11 **A.** Right. So the issue with number four that Dr. Menninger
12 raised, two parts to it. There was the sales meeting issue,
13 as well as the marketing log meeting issue. The finding on
14 the sales meeting, which was held in Wilmington in early
15 March was hosted by Dr. Fikry and his sales team. Andy Supp,
16 business development leader, was the decision maker on the
17 attendee list, not Hacene. And that Andy and Hacene
18 determined the focus of the breakout sessions, and again,
19 based on subject matter expert, Chris Clendening would attend
20 that particular piece. So all of that was relayed to
21 Dr. Menninger. The -- do we just keep going?

22 **Q.** Please. Please.

23 **A.** The finding on the marketing log meeting, again, Andy
24 Supp was the owner of that meeting. He determined attendees.
25 Andy vetted the attendee list, where there were multiple

1 participants from the same team, asked them to determine who
2 was best to represent their function, and that Lorraine
3 McNamara is currently a lab representative who works for
4 Dr. Menninger, so there's representation in that meeting for
5 the lab.

6 All of that was related to Dr. Menninger. And
7 again, they're not run or determined by Hacene, so he wasn't
8 in the position to treat her differently because he wasn't
9 the owner or the deciding factor in those situations. I
10 encouraged Dr. Menninger to reach out to Andy Supp if she
11 felt she wanted to attend routine meetings and/or work with
12 Lorraine on a process, if she didn't feel like she was
13 getting the pertinent information she needed from those
14 meetings, to certainly work with her employee, Lorraine
15 McNamara, to gain that information. And then just reminded
16 her that the sales meeting in 2018 was driven by, not her
17 manager, but Dr. Fikry and our business development team.
18 And that they had determined the agenda and the attendees.

19 **Q.** The next item was the town hall. And what did you find
20 in that regard and what did you communicate to Dr. Menninger?

21 **A.** So with the town hall, again, no formal meeting prior to
22 the town hall where any introductions were had. It was
23 really a very focused meeting to share our client and that
24 presentation. So I shared that with Dr. Menninger. She
25 wasn't treated differently. Nobody was introduced in that

1 meeting.

2 **Q.** The next item down relates to the 2017 performance
3 review. What were your findings in that regard and what did
4 you communicate to Dr. Menninger?

5 **A.** So the discussion on Dr. Menninger's performance review
6 for the year 2017 occurred in the year 2017, in December. It
7 focused on her 360 feedback, and -- which is part of the
8 basis of her year-end review. The process, the discussion,
9 without seeing a review, and system forcing approval was also
10 conducted with two other colleagues. The discussion ensuing
11 performance ratings occurred prior to raising an
12 accommodation request in January of 2018. So she wasn't
13 treated differently than others.

14 **Q.** And what did -- when you said this was conducted with two
15 other colleagues, what did that mean?

16 **A.** So two other direct reports of Hacene at the time that
17 performance reviews needed to be moved forward to align with
18 our merit process, our compensation process, Dr. Menninger
19 and two other of her colleagues were also forced -- we had to
20 move them along in the process. So she wasn't treated
21 differently in that process. There were two others of her --
22 sorry -- there were two other of her colleagues that were
23 moved along, as well.

24 **Q.** And in the last item, was the discussion of the "exit
25 package and/or consulting role." And we'll have to go to the

1 next page for some of this, but at the bottom of this page,
2 under (a), it says findings. Can you describe what you found
3 in this regard?

4 **A.** So it -- the meeting was intended to be a working session
5 around work accommodations. The conversation evolved to what
6 if I can't perform the duties of my job. Chad had discussed
7 a hypothetical picture of what that might look like. He
8 discussed to protect the business with the licensures needed,
9 potentially moving into a consulting role, and providing an
10 opportunity to seek alternative employment through an
11 arrangement, that was driven not by her manager, but by Chad.

12 **Q.** And what was the significance, in your role as an
13 investigator, what was that significance to you?

14 **A.** If Dr. Menninger felt that her manager was treating her
15 differently because of her disclosure of her disability, but
16 in this instance, the conversation or this information was
17 shared not by her manager, but by Chad St. John.

18 **Q.** And we'll jump to the next page. At the top of this
19 page, it indicates communication to Dr. Menninger. And can
20 you explain what you communicated to Dr. Menninger?

21 **A.** So all of what I just described, and then I shared that
22 when we had a discussion, a follow-up discussion on May 15th,
23 she asked me the same questions, what if I can't perform the
24 essential functions of my job. If she's asking me what-if
25 type questions, she's going to get a what-if type response,

1 and that doesn't mean that that's the path forward at this
2 current moment, and shouldn't be translated that you're being
3 forced out of the organization.

4 **Q.** And once you shared this information with Dr. Menninger,
5 did she have a response to you?

6 **A.** She was disappointed.

7 **Q.** And what did -- what specifically did she say that
8 indicated that she was disappointed?

9 **A.** It certainly wasn't the outcome that she was hoping for.
10 I felt badly. I mean, I wish that, you know, things would
11 have turned out differently for Dr. Menninger, but I couldn't
12 change the outcome of an investigation based on what she saw
13 that just wasn't there.

14 THE COURT: Is that the end of that document?

15 MS. MANDEL: That's the end of this document.

16 THE COURT: Okay.

17 So Ms. Ballweg, if you can step down for a moment.

18 So we're going to pause Ms. Ballweg's testimony
19 right here, because we have an out-of-state witness, who the
20 plaintiff is going to call who we want to finish before
21 1 o'clock, so that person can get back on a plane and go
22 home. So we're going to pause Ms. Ballweg's testimony. It's
23 not done. Just keep it paused. Mr. Hannon will call the
24 next witness, and when we're done with that witness, we'll
25 resume with Ms. Ballweg. We do that here, we do that a

1 variety of times just to accommodate people's schedule.

2 Go ahead.

3 MR. HANNON: The plaintiff calls Tonya Hart.

4 THE COURT: Go ahead, Ms. Hart.

5 And just take the notebook off the stand.

6 MR. HANNON: Yes.

7 (The witness was duly sworn.)

8 THE DEPUTY CLERK: And can you please state your
9 full name and spell your last name for the record.

10 THE WITNESS: Tonya Louise Hart, and my date of
11 birth, is that what you said?

12 THE COURT: No, you don't have to give your date of
13 birth.

14 We have rules about dates of birth and Social
15 Security numbers. We keep them private.

16 Go ahead.

17 **TONYA L. HART**

18 having been duly sworn, testified as follows:

19 **DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF**

20 BY MR. HANNON:

21 **Q.** Could you please tell the jury who you are.

22 **A.** Tonya Louise Hart, and I'm Lisa's sister.

23 **Q.** Okay. And are you Lisa's older sister or younger sister?

24 **A.** Older sister.

25 **Q.** How far apart?

1 **A.** About a year. 12 months. 12 and a half months apart.

2 **Q.** Where did you and Lisa grow up?

3 **A.** The first half of our life, we grew up in Conyers,
4 Georgia, a suburb of Atlanta, from -- up until 1978. Lisa
5 was ten years old at the time.

6 **Q.** And where did you move after Conyers?

7 **A.** We moved to Appleton, Wisconsin.

8 **Q.** Who did you live with in Conyers?

9 **A.** In Conyers, we lived with my mother and father.

10 **Q.** And what was the reason for the move?

11 **A.** My mom had pretty much had enough with just what was
12 happening with my father, who had some mental health issues,
13 and we -- she wanted to separate and move Lisa and I up to
14 Wisconsin to be closer to her family.

15 **Q.** And prior to moving, had you, yourself, observed any of
16 your father's mental health issues?

17 **A.** Yes.

18 **Q.** And just broadly speaking, what kinds of actions had you
19 observed?

20 **A.** Just violent outbursts, days of really, just, depression,
21 but learning later that he had schizophrenia, understanding
22 now his behaviors, what they were like. But as a kid, I did
23 not understand that. He was yelling at my mother, throwing
24 things in the house, throwing food across the kitchen. Just
25 this was going on for years. And at some point, my mother

1 just had enough and was scared for herself and my sister and
2 I.

3 **Q.** Okay. And I should have asked this question earlier,
4 what do you do for work?

5 **A.** I'm a nurse case manager.

6 **Q.** Okay. And where do you work?

7 **A.** Bend, Oregon.

8 **Q.** And do you work in a hospital?

9 **A.** I work from home, but we do go into the office one day a
10 week. So telecommute.

11 **Q.** Okay. And for how long have you been a nurse?

12 **A.** Since 2010.

13 **Q.** And do you live in Bend?

14 **A.** Yes.

15 **Q.** For how long have you lived there?

16 **A.** Since November of 2019.

17 **Q.** And who do you live with?

18 **A.** My husband.

19 **Q.** Do you have any kids?

20 **A.** Yes.

21 **Q.** How many?

22 **A.** I have two kids. They're adults. And one is in the Navy
23 and one lives in Denver, where we raised the boys.

24 **Q.** Okay. So you mentioned that you, your sister, and mother
25 moved. Did you continue to live with Lisa and your mother up

1 until the time you went to college?

2 **A.** Yes. However, Lisa was an exchange student, so yes. Up
3 until the time that I went to college in 1985, my sister was
4 an exchange student in Norway my freshman year in college.

5 **Q.** Okay. And did you and Lisa attend the same college at
6 some point?

7 **A.** Yes.

8 **Q.** And where did you both go to school at the same time?

9 **A.** At the same time, we went to University of Wisconsin in
10 Stevens Point for two years, 1985 to 1987. When Lisa got
11 back from Norway, she started college there in 1986, I
12 believe. And then we both transferred to University of
13 Georgia in 1989.

14 **Q.** And was that in part because you could get in-state
15 tuition there?

16 **A.** Yes. My dad still lived in Georgia, so we were able to
17 get in-state tuition.

18 **Q.** And did you and Lisa live together when you were at
19 school in Georgia?

20 **A.** We did, yes.

21 **Q.** And subsequent to college, was there ever another time
22 when you and Lisa lived together?

23 **A.** Prior to college.

24 **Q.** After college?

25 **A.** After, subsequent, yes. Yes. We lived in Chicago after

1 I graduated from college. I moved to Chicago and we were
2 roommates for a year.

3 **Q.** And you know that at some point Lisa decided to become a
4 doctor; is that right?

5 **A.** Yes.

6 **Q.** And during the time that Lisa attended medical school and
7 went through her other work to become a doctor, did you and
8 her remain close?

9 **A.** Yes.

10 **Q.** And just give the jury a sense of sort of what the
11 frequency of your interaction with Lisa was during that time?

12 **A.** I think during that time, I was busy raising boys. Lisa
13 was going to medical school, so our -- I would say once every
14 month, once every month and a half, sometimes it would be a
15 little bit longer, just depending on how busy she was with
16 her studies.

17 **Q.** And you were aware that what Lisa's subsequent jobs were
18 in Kansas and -- I'm forgetting where else. Do you recall
19 where else she worked?

20 **A.** She was working in Overland Park, Kansas. She did her
21 residency in Virginia, I believe.

22 **Q.** Okay. And did you and Lisa continue to stay in touch
23 with that same level of frequency?

24 **A.** Yes.

25 **Q.** Okay. And did you learn at some point that Lisa was

1 going to work for PPD?

2 **A.** Yes.

3 **Q.** Okay. And do you recall anything about Lisa's feeling
4 about taking on that new job?

5 **A.** I recall that she was excited to start this job. It was
6 a good opportunity.

7 **Q.** Okay. During the time of Lisa's various professional
8 jobs, up until the time that she joined PPD, did you notice
9 any change in her behavior or attitude or anything like that?

10 **A.** No.

11 **Q.** Since you first grew up with Lisa, was there anything
12 about Lisa that sort of stood out to you?

13 **A.** Lisa, just growing up, I just remember her being really
14 shy, a little bit more withdrawn in family gatherings, going
15 to weddings, a funeral, just any big gathering where we had
16 to have interaction with our family, or extended family, I do
17 recall Lisa being a little bit more -- I was kind of more the
18 outgoing one, she definitely was more shy and harder for her
19 to make small talk, I guess, with her family.

20 **Q.** And as you got older and pursued your professional
21 endeavors, did she ever share with anything -- prior to
22 joining PPD, about any kind of stress or anxiety she had?

23 **A.** No.

24 **Q.** Okay. Now, at some point in time -- well, let me ask
25 this question first.

1 Did you know before Lisa joined PPD that she
2 suffered from social anxiety disorder?

3 **A.** No.

4 **Q.** Did Lisa ever share with you the fact that she was seeing
5 a doctor in Kansas to help her with her anxiety?

6 **A.** Prior to PPD, no.

7 **Q.** Did she tell you that before PPD?

8 **A.** No.

9 **Q.** How was it that you found out about Lisa's diagnosis?

10 **A.** She told me after -- she told me that there was a meeting
11 that she had with her employer, with PPD, her supervisor and
12 an HR person, and about a month after that meeting, that's
13 when she disclosed this -- what happened with the meeting.
14 And somewhere in that early 2018 time frame, she also
15 disclosed that she -- her psychiatrist was -- had diagnosed
16 her with generalized anxiety disorder, social anxiety
17 disorder, and panic disorder.

18 **Q.** What do you recall Lisa telling you about that meeting?

19 **A.** She basically thought -- I mean, Lisa thought this was
20 a -- this is what she was telling me, that she's -- she went
21 to this meeting thinking that the meeting would be to discuss
22 accommodations for her in her role as a clinical pathologist,
23 but instead the meeting was more of a -- not a discussion of
24 that, but more just felt that she was being essentially
25 pushed out of the company.

1 **Q.** And as Lisa was describing this event to you, what was
2 her demeanor?

3 **A.** Just -- I just remember her being very -- sounding very
4 scared, just feeling really hopeless. And I could hear the
5 tone in her voice, just very shaky and tearful, a lot of
6 crying, just -- yeah, she was devastated. She was doing a
7 good job, but she felt -- she told me that her reviews were
8 good with PPD, and any annual reviews that she had, she
9 scored well on her reviews, and just like a physical
10 disability, her mental health disability, she just felt like
11 she should have some accommodations made for her in her role.
12 She was doing a good job in her role.

13 **Q.** When you -- when you learned that your sister had been --
14 had been diagnosed with a disorder, did that surprise you?

15 **A.** A little bit. I mean, I always knew Lisa was Lisa. Just
16 growing up, she was reserved and shy, and that was Lisa. But
17 she was really successful as far as her studies and getting
18 through med school. She was functioning and she was doing a
19 good job as a clinical pathologist for Saint Luke's medical
20 system, another job that she had after that with a clinical
21 reference laboratory. And she functioned really well and did
22 her job really well.

23 **Q.** Did you ever have the opportunity to observe Lisa as a
24 mother?

25 **A.** Yes.

1 **Q.** When was that?

2 **A.** In 2008, when my niece, her daughter, Maya, was born. My
3 husband and I did travel to Kansas City, or Overland Park,
4 Kansas, a suburb of Kansas City, and spent approximately a
5 week, I believe, there. And then there were some subsequent
6 visits after that, where I traveled alone to Kansas -- or to
7 Overland Park. And this was when Maya was -- I'm guessing
8 she was probably three years old at that time. And so there
9 were other visits after that, as well.

10 **Q.** And what, if anything, did you notice about Lisa's
11 ability to cope with the stresses of being a mother?

12 **A.** She functioned -- from what I observed, functioned fine
13 taking care of her daughter.

14 **Q.** Now, you mentioned that you had the call with Lisa after
15 her meeting with HR and her boss. Subsequent to that call,
16 did the frequency of your communications with Lisa change at
17 all?

18 **A.** Yes. Our communications did increase after that.

19 **Q.** And why was that?

20 **A.** I was very, very worried about her, really concerned for
21 her wellbeing. She was having multiple panic attacks a day
22 is what she was telling me. This was also shared by her
23 husband, Mason, to me, in separate phone calls. And she --
24 she voiced, as well as her husband, Mason, voiced to me that
25 she was struggling with severe depression, suicidal thoughts

1 at times and she couldn't leave the house. She just -- very
2 scared. I know any time I were to call her, I would always
3 have to give her a little warning, and just send her a text
4 message that "Is this a good time to call?" She was just
5 really, really struggling. She had a lot of days where she
6 just couldn't come out of her room. Yeah.

7 **Q.** Had you ever seen Lisa like that before in her life?

8 **A.** No.

9 **Q.** At some point in 2018, did you go to visit Lisa?

10 **A.** Yes.

11 **Q.** And when was that?

12 **A.** It was in August of 2018.

13 **Q.** And was that surrounding any sort of event?

14 **A.** Yes. Lisa had participated in an ultra marathon.

15 **Q.** And did Lisa indicate to you at the time why she wanted
16 to do the ultra marathon?

17 **A.** The marathon, it was a big, very challenging thing. Of
18 course, it was an ultra marathon. This was an outlet for
19 Lisa. This was her therapy. It was something that she could
20 push through physically to help her with the mental pain that
21 she was having surrounding these -- this event with PPD, this
22 meeting with PPD. And her doctor also agreed that this would
23 be very beneficial for her and was in agreement that she
24 should pursue that and that running was her therapy. And the
25 ultra marathon being a long event, but it was just a way that

1 she could push through something very difficult, and it
2 helped her to know that she could -- by doing that, she could
3 push through and keep going.

4 **Q.** While you were out visiting for the -- in connection with
5 the ultra marathon, did you have an opportunity to talk with
6 Lisa's husband, Mason, about her condition?

7 **A.** Yes.

8 **Q.** And where did that conversation take place?

9 **A.** It was at the -- we had taken Maya to swimming lessons,
10 and we were just sitting by the pool, and while Maya was
11 having her swim lesson, we just talked about how much Lisa is
12 struggling. Mason shared with me the number of panic attacks
13 that she's been having daily, just very difficult for her to
14 function on a daily basis, significantly depressed, having
15 thoughts of self-harm on some days. Very worrying for me.

16 **Q.** Was Lisa present for that conversation?

17 **A.** No.

18 **Q.** So subsequent to that trip to Massachusetts, did you
19 continue to stay in regular contact with your sister?

20 **A.** Yes.

21 **Q.** And just generally speaking, what were your sort of
22 observations as you communicated with her?

23 **A.** On -- some of the conversations were via text message,
24 some were phone calls. Just on both, really, she just talked
25 about how difficult it was for her. She also shared that

1 she's, you know, continuing to have these daily panic
2 attacks, difficulty sleeping. She started requiring
3 medication, benzodiazepines, specifically Clonazepam to be
4 able to sleep. She was having disturbing dreams involving
5 PPD. Just really finding it difficult to have any happiness.

6 MS. MANDEL: Your Honor, objection. That's all
7 hearsay.

8 THE COURT: What about that, Mr. Hannon?

9 MR. HANNON: State of mind. As long as it's a
10 present mental condition.

11 THE COURT: Overruled. As to what Dr. Menninger
12 told her. That's what you're referring to?

13 MR. HANNON: Correct. Exactly. Yes.

14 BY MR. HANNON:

15 Q. At some point in time, did Lisa move closer to you?

16 A. Yes.

17 Q. When was that?

18 A. She moved -- her family moved to Bend, Oregon in the
19 summer of 2020.

20 Q. And did she tell you what her motivation was for moving
21 to Bend, Oregon?

22 A. She told me so that she could be closer to family for
23 herself and for my niece, Maya.

24 Q. And beside yourself, were there any other family members
25 in that area?

1 **A.** My mother.

2 **Q.** Okay. And after Lisa moved to Bend, Oregon, what was the
3 sort of frequency with your contact with her?

4 **A.** Well, we were in the middle of the pandemic, so we did go
5 over to their house, and we would visit on the patio outside.
6 But, again, we were -- it was my husband, myself, Maya,
7 Mason, her husband, and Lisa. So it was just difficult to
8 get -- to talk about just what she was going through in that
9 scenario, in that situation, with just all of us present.

10 I would have to give her warning, when we're
11 driving there, we're ten minutes away, we're five minutes
12 away. Lisa just had a lot of fear, a lot of panic. And I
13 just had to give her a heads up that we're arriving, or the
14 same as when I would make a phone call, I had to give her a
15 heads-up and ask if it was okay that we come in or that we
16 were going to arrive in a few minutes, you know.

17 **Q.** So just to clarify that, so say, for example, that you
18 were going to visit Lisa's family, would it -- would you feel
19 comfortable just showing up and ringing the doorbell?

20 **A.** Absolutely not.

21 **Q.** And if you wanted to talk to her on the phone, would you
22 feel comfortable just calling her?

23 **A.** No. No.

24 **Q.** What would you do before you called her?

25 **A.** I would send her a text message asking if it was okay.

1 And if I didn't get a response, then I figured she was just
2 sleeping or just -- I always -- I prefaced this with -- I
3 always told Lisa, if I send you a text message, please don't
4 feel that you have to respond to me. I know that you're
5 struggling and that you're most important right now. Not me.

6 **Q.** You mentioned the communication with her husband Mason at
7 the swim practice. Did you have any subsequent conversations
8 with Mr. Menninger concerning Lisa's safety?

9 **A.** Yes. Mason called me on several occasions, up until even
10 just a couple of months ago, approximately, that he was
11 really worried about her. She's not coming out of her room.
12 She doesn't come down for dinner --

13 THE COURT: Why is that admissible?

14 MR. HANNON: Well, it's still state of mind in
15 terms of a person --

16 THE COURT: But somebody's state of mind, but why
17 is that state of mind?

18 MR. HANNON: Why is his state of mind?

19 THE COURT: Right. In other words, like usually
20 it's percipient witnesses. Obviously, Dr. Menninger's state
21 of mind isn't -- is relevant an issue. And so her
22 observations or statements about things of that nature come
23 in for that. But why about -- what about -- third parties
24 commentary, why isn't that hearsay?

25 That's your objection, isn't it?

1 MS. MANDEL: Yes, Your Honor.

2 MR. HANNON: Well, his state of mind in terms of
3 whether or not he's worried is directly reflective of what he
4 was observing, just like if he were here testifying, "I was
5 really worried," you would let him testify that he was really
6 worried.

7 THE COURT: That's because he would be here
8 testifying.

9 MR. HANNON: Right. But it's still the same
10 statement. It's not a hearsay concern.

11 THE COURT: It's an extra statement, because it's
12 the statements of this witness.

13 MR. HANNON: But it's not hearsay. It's the same
14 as him sitting in the box saying, "I was really scared," as
15 him telling her that he was really scared and then this
16 witness testifying to it. It doesn't raise a hearsay issue.

17 THE COURT: Why would his statement, when he's on
18 the witness stand, "I'm worried" be relevant? He could say
19 the things he observed about her. But why is his own state
20 of mind? His own state of mind is not something that the
21 jury has to determine.

22 MR. HANNON: Well, he can't necessarily testify to
23 what his wife told him, right?

24 THE COURT: Well, he could. That's his choice.

25 MR. HANNON: No, it's spousal disqualification.

1 THE COURT: Now, she -- only if she objects --

2 MR. HANNON: It's a disqualification. It's not a
3 privilege.

4 THE COURT: I'm not sure about that. You can never
5 testify?

6 MR. HANNON: Disqualified.

7 THE COURT: But in any event, that has to do with
8 marital communications. Many of these things aren't marital
9 communications.

10 MR. HANNON: Discussions about self-harm and things
11 like that. Those are --

12 THE COURT: It depends where they happened.

13 MR. HANNON: I'm pretty sure they weren't out in
14 public in front of people.

15 THE COURT: But one might infer that, right? But
16 in any event, his -- so you're saying that his --

17 Let me see you both at sidebar.

18 MR. HANNON: Sure.

19 THE COURT: I apologize for this, ladies and
20 gentlemen. It's a little more complicated.

21 (Bench conference concluded.)

22 THE COURT: It seems to me, one, sure -- what
23 you're saying is his state of mind, inferential, but from
24 which they can draw inference as to her condition. But
25 ordinarily -- but his state of mind is not directly relevant.

1 His state of mind is only possibly relevance is that from
2 that they might be able to infer from his state of mind her
3 condition. So that's a relevance issue. And so but even if
4 he -- even if that -- even if that relevance is true, he
5 can -- and he can -- and assuming he could get up and say my
6 state of mind is, and presumably many of the things that he's
7 worried about are not marital privilege disqualification or
8 otherwise, she didn't come out of her room, she didn't do
9 this, she didn't do that. Those are not marital privilege.
10 I don't think, or he's not disqualified from testifying about
11 those things.

12 But putting that aside, then what you're having her
13 do is this witness is saying that's what was reported to me,
14 so that's him saying to her, "I am worried."

15 MR. HANNON: Correct.

16 THE COURT: And now she's testifying as to what he
17 said to her.

18 MR. HANNON: (Nods head.)

19 THE COURT: And so that's -- I mean, that's an
20 extra layer. Why isn't that -- why wouldn't -- like, whether
21 or not -- first of all, the preference would be to hear from
22 him, because he directly would say it. And now we have the
23 jury has to determine, if I let it in, one, does she
24 accurately report it, what he said to her? Is she being
25 truthful and all of the things. But if she's reporting what

1 he said to her, then if she's accurately reporting, they have
2 to evaluate his perception, his state of mind, which they
3 don't have him for. That's the concern I have, that whether
4 or not it's exactly hearsay, it's also the concerns of the
5 hearsay rule.

6 MR. HANNON: Sure. So those concerns have already
7 been addressed by the drafters of the hearsay rule, which
8 created the exception for state of mind.

9 THE COURT: Let me get the rule.

10 Okay. Go ahead. So you're saying that the
11 statement of the declarant, the declarant being
12 Mr. Menninger, "I am worried," is the statement of
13 then-existing mental physical condition, and that that's not
14 excluded, whether or not the declarant is available as a
15 witness.

16 MR. HANNON: Correct. Now it creates the question
17 of relevance, and Your Honor made the distinction between it
18 being directly relevant versus being circumstantially
19 relevant, and there's no rule under the hearsay that makes it
20 only admissible when it's directly relevant.

21 THE COURT: I understand. That's a relevance --
22 that's a 403 or --

23 MR. HANNON: Correct.

24 THE COURT: But even if the declarant -- so the
25 declarant's statement of then-existing state of mind is not

1 hearsay, I agree with that. But that doesn't mean anybody
2 can -- like if she told her, she told you, and you told
3 someone else told and someone else, that's not admissible the
4 9th time through.

5 MR. HANNON: Correct.

6 THE COURT: Right. So you're saying it's only
7 admissible because she directly heard it?

8 MR. HANNON: Correct. From the declarant, yes.

9 THE COURT: What do you say about that?

10 MS. MANDEL: Your Honor is also limited to that one
11 present sense impression, not the sort of expanded version of
12 the story, right? He utters a present sense impression to
13 her and she repeats that. That's limited.

14 THE COURT: That's not present sense. I think it's
15 an existing.

16 MS. MANDEL: I'm sorry, yes. She's providing much
17 more.

18 THE COURT: I think you do have to be careful with
19 that. I think you're right, you get the statement, but I
20 think you don't get everything surrounding it.

21 MR. HANNON: I think you're right. Yes.

22 (Bench conference concluded.)

23 THE COURT: Before you continue, Mr. Hannon, let me
24 just explain for the jury's benefit.

25 So ladies and gentlemen, there's a rule called --

1 we have a legal rule of evidence -- remember I decide
2 evidence, what's sort of admissible or not. We have a legal
3 rule of evidence called hearsay. The short version of
4 hearsay, if such a thing exists, is that the purpose of a
5 hearsay rule, generally, is that you should hear from people
6 who are what we call percipient or direct witnesses, the
7 people who saw -- you think of an auto accident, the people
8 who saw the accident, the people who heard the accident, the
9 live witnesses, rather than what people said to other people,
10 and then you can evaluate those people.

11 But like many rules, that rule has exceptions. So
12 one of the exceptions that we've been discussing here is
13 that -- one of the exceptions is that a witness, here
14 Ms. Hart, can testify to a statement from someone who's not
15 before you right now, as to what that person's then-existing
16 state of mind. So the example of Mr. Menninger saying "I'm
17 worried." That's the state of his mental condition. So she
18 can, under the rules of hearsay, even though he's not here
19 testifying to that right now, that is an exception to that
20 rule, and she can. And that's why I'm going to allow that.
21 But there are two things that you should know about that.

22 One is that what -- and that's part of what we're
23 discussing is how far the -- and the rule doesn't allow this
24 witness to testify to all sorts of other circumstances, just
25 as to that. There are other exceptions to the hearsay rule.

1 There's at least 20, maybe more. So there could be other
2 things of that nature that come in. But that -- that's what
3 we were discussing and trying to think through.

4 And the second thing that, to make clear to you.
5 Mr. Menninger's state of mind is not actually directly -- is
6 not directly relevant in this case. You aren't deciding what
7 happened to Mr. Menninger. He's not a party to this case.
8 He has no claims. In that sense, his state of mind is
9 irrelevant. Its only relevance in this case, at least so
10 far, is that if you determined that that -- whatever you
11 determine about his state of mind from that, you may be able
12 to draw reasonable inferences. I'm not saying you should.
13 It's up to you to decide what inferences to draw, but the
14 reason it's being admitted is for you to consider whether,
15 from that, you would draw inferences about Dr. Menninger's
16 condition or state of mind. So that's really what the focus
17 is, but that's why it's being offered, and that's an example
18 of circumstantial evidence.

19 Anything either of you want to address about that
20 before we continue?

21 MS. MANDEL: No, thank you, Your Honor.

22 MR. HANNON: Good explanation.

23 THE COURT: Thank you. Go ahead.

24 BY MR. HANNON:

25 Q. Ms. Hart, so just to kind of get back where we were, I

1 think I had asked you about subsequent conversations with
2 Lisa's husband. And just to make the question a bit crisper
3 here, so we're staying within the rules, subsequent to the
4 in-person discussion you mentioned earlier, have you had
5 subsequent conversations where Mr. Mason has shared with you
6 concerns that he was having concerning Lisa's health?

7 **A.** Yes.

8 **Q.** Okay. And staying limited to that subject, Mr. Mason
9 expressing to you concerns he was having at that moment about
10 Lisa's health, what do you recall about those statements?

11 **A.** I recall that Mason told me that he was very concerned
12 that she was not coming out of her room. She was just not,
13 you know, coming out for even dinner, just really worried
14 that she just wasn't functioning, and really worried that she
15 had given up, worried that she might do something. And he
16 was asking me for some help, any suggestions I have as far as
17 where I can take her -- or where he can take her if there's
18 an emergency. And he was just feeling overwhelmed is what
19 he's telling me. And I, in one of the phone calls, found
20 some facilities that he could have as a reference, if it came
21 to that point, where there was an emergency and he needed to
22 take her to a local ED, or a crisis stabilization center. I
23 just provided those for him. Really just trying to learn
24 what's happening. At that point, there was several moments
25 in time, I guess, that Lisa couldn't really talk to anybody.

1 She wasn't --

2 **Q.** Well, hang on. Let me just stop you there for a moment.

3 You mentioned asking questions about where to take
4 Lisa for an emergency. What kind of an emergency did you
5 understand this was around?

6 **A.** That she was having thoughts to self-harm herself.

7 **Q.** And did you, in fact, help Lisa's husband to come up with
8 a plan of what to do in the event that she harmed herself?

9 **A.** Yes. I gave them the names of some facilities, their
10 phone numbers, I provided all the information, addresses, if
11 it comes to that point, which it -- they were there already.
12 It could have been five minutes from that phone call. It was
13 that bad, where he could take her if need be.

14 **Q.** Okay. Have you made any -- have you made any
15 observations -- let me ask a better question.

16 As of today, how frequently do you communicate with
17 Lisa?

18 **A.** Weekly. We communicate by text and phone call. There's
19 been more recently she's not been up for actual phone calls
20 and just easier to do text messages, because she's just been
21 so withdrawn and stressed out about what's happening with
22 this trial. But I check in with her daily to every other
23 day, just to see how she's doing. I know how she's doing,
24 but it's just more so that she knows that I'm here for her,
25 however I can support her.

1 Q. Has Lisa shared with you at all anything about her desire
2 to get better?

3 A. She desperately wants to get better.

4 Q. And what -- what has she told you with respect to that
5 issue?

6 A. She told me that she desperately wants to get better for
7 her family, for Maya. My niece, her daughter, also struggles
8 with depression and anxiety, has been diagnosed with that.
9 And she's very worried about her and how this is all
10 effecting Maya and her mental health, as well.

11 Q. And over the last several years, have your observations
12 of what have Lisa has been doing in terms of treatment and
13 everything else, is that all consistent with that desire to
14 get better?

15 A. Yes.

16 MR. HANNON: That's all I have, Your Honor.

17 THE COURT: All right. Cross-examination.

18 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

19 BY MS. MANDEL:

20 Q. Good morning.

21 A. Good morning.

22 Q. I guess at this point we're good afternoon.

23 I'm Rachel Mandel and I'm going to ask you some
24 questions, as well.

25 A. Okay.

1 **Q.** I understand that Bend is a few hours' drive from
2 Portland; is that right?

3 **A.** Correct.

4 **Q.** And Portland is where your sister lives?

5 **A.** Correct.

6 **Q.** Before today, when was the last time that you saw your
7 sister?

8 **A.** Before today, the last time I saw Lisa was September of
9 last fall, last year.

10 **Q.** September 2022?

11 **A.** Correct.

12 **Q.** And you recall, Ms. Hart, that at some point Lisa told
13 you that her doctor said she needed certain accommodations in
14 her job at PPD; is that right?

15 **A.** Correct.

16 **Q.** And Lisa told you that PPD said that they were not able
17 to meet some of those accommodations that her doctor said she
18 needed; is that right?

19 **A.** What Lisa told me was that she went to a meeting with
20 PPD, and going into that meeting, she thought that there
21 would be a discussion to discuss accommodations for her job,
22 and instead it felt -- or she told me that it was more of a
23 meeting to give her an exit package.

24 **Q.** And Lisa never told you what types of accommodations that
25 she had asked for from PPD; isn't that right?

1 **A.** Correct.

2 **Q.** You testified a few moments ago that -- actually, strike
3 that.

4 Starting in 2018, you started to have more regular
5 communication with your sister than you previously had; is
6 that right?

7 **A.** Correct.

8 **Q.** And at that time, your sister was living in
9 Massachusetts; is that right?

10 **A.** Yes.

11 **Q.** And you were living in Bend?

12 **A.** No, not yet. I was living in Denver, Colorado.

13 **Q.** You were living in Denver. Okay. So before you moved to
14 your current home?

15 **A.** Correct.

16 **Q.** And at that point in 2018, how regularly were you seeing
17 your sister in person?

18 **A.** Not regularly, because we lived on different ends of the
19 United States. I had seen her in 2018 to help crew her race.
20 And prior to that, it had been several years.

21 **Q.** Let's look at some text messages from that time period.

22 Ms. Hart, you should see some text messages showing
23 up on the screen; is that right?

24 **A.** Yes.

25 **Q.** And at the top, it says "Tonya ;" that's you, right?

1 **A.** Yes.

2 **Q.** And these are some text message, you may recall having
3 with your sister? Is that right?

4 **A.** Yes.

5 **Q.** And you sent her some inspirational texts like an image
6 of Rosie the Riveter; is that right?

7 **A.** Sorry. Can you repeat that?

8 **Q.** There's some inspiration texts with a picture on the
9 page?

10 **A.** Yes.

11 **Q.** And beneath that, that's where your sister, Lisa, wrote
12 back to you; is that right?

13 **A.** Yes.

14 **Q.** And she wrote, "I have an awesome doctor and an attorney
15 helping me. Diagnosed with severe and chronic social anxiety
16 disorder, panic disorder, generalized anxiety disorder.
17 Lifelong, but getting worse."

18 Do you see that?

19 **A.** Yes.

20 **Q.** And your sister sent this to you in 2018, right?

21 **A.** Yes.

22 **Q.** And looking back earlier from this time when you and your
23 sister were roommates during college, which I believe you
24 mentioned just a bit ago, you had been aware at that time, as
25 well, that your sister had social anxiety and panic, correct?

1 **A.** Back in college?

2 **Q.** Yes, were you aware at that time?

3 **A.** No.

4 **Q.** Well, let's look at the next -- the next part of this
5 message. This is from April of 2018.

6 **A.** Yes.

7 **Q.** And you wrote, "Just want to check in and see how you are
8 doing." Is that right?

9 **A.** Yes.

10 **Q.** And at that point in April of 2018, your sister wrote
11 back and said, "Trying to in hang there. It's been
12 challenging to get the panic attacks under control. I
13 typically only leave the house to go to the doctor."

14 Do you see that?

15 **A.** Yes.

16 **Q.** And at this point, in April of 2018, you hadn't seen your
17 sister in person in some time; is that right?

18 **A.** Correct.

19 **Q.** It had been some years?

20 **A.** 2018. I'm trying to recall. My sister and her husband
21 and Maya had made a trip to Boulder, Colorado. I can't
22 recall the dates of that, but Maya was still pretty young at
23 that time. I just can't recall the year that that was.

24 **Q.** But it was a good time before 2018?

25 **A.** It was before 2018, yes.

1 **Q.** And so fair to say at this point in 2018, you hadn't
2 observed, in person, what your sister's condition was at that
3 point?

4 **A.** Correct. It had been several years.

5 **Q.** Let's look at -- well, actually, we'll pause on that for
6 a moment. You testified just a bit ago, you said something
7 about crewing a race?

8 **A.** Yes.

9 **Q.** Is that right? Can you explain what that means?

10 **A.** Yes. It was my first time doing it, so I was a little
11 bit of an amateur doing it. But Lisa -- again, it was an
12 ultra marathon, so she had several laps that she would -- on
13 a course that she would run. And when she came back to the
14 home area, where we all had our tents set up and supplies,
15 that's where I would meet her with -- an area where I could
16 refresh her water, her gels, a drink that she would use for
17 emergency, any snacks. I'm trying to recall, change of
18 socks, whatever it needed -- needed -- whatever she needed to
19 have supplied to her to keep going.

20 **Q.** And as far as you understand, is this something that is
21 typical when people compete in ultra marathons, to have
22 someone crew them?

23 **A.** Yes.

24 **Q.** And is that just given the length of the race and what's
25 involved in being there for so long?

1 **A.** Correct. Correct.

2 **Q.** Let's look at another set of text messages from spring of
3 2018. So the -- this is -- it says Saturday, May 26, 2018.
4 The part that's in sort of that turquoise color, that's from
5 Lisa to you; is that right, Ms. Hart?

6 **A.** Yes.

7 **Q.** Okay. And Dr. Menninger said, "I spoke with my doctor
8 yesterday and she loved the idea of me still doing the ADU
9 race." Is that the anchored down?

10 **A.** Anchored Down Ultra.

11 **Q.** Anchor Down Ultra marathon?

12 **A.** Yes.

13 **Q.** "As a form of therapy with no expectations. Do you think
14 you could come and crew with Connor? We will of course pay
15 for your flights."

16 **A.** Yes.

17 **Q.** Do you see that? Is -- Connor is one of your sons?

18 **A.** Yes.

19 **Q.** Okay. And so did you understand that this was your
20 sister inviting you to come out and crew for her for that?

21 **A.** Yes.

22 **Q.** And below it looks like you it said, "That sounds great"?

23 **A.** Yes.

24 **Q.** And Garret is another one of your sons?

25 **A.** Yes.

1 Q. Okay. And you said, "I'll see if Connor can get off of
2 school and come with me."

3 A. Yes.

4 Q. And did you, in fact, go out to crew this race for
5 Dr. Menninger?

6 A. Yes.

7 Q. And that was in Rhode Island; is that right?

8 A. The race was in Rhode Island, yes.

9 Q. So you came out. It was from Denver, at that point?

10 A. Yes.

11 Q. From Denver to Rhode Island to crew the race?

12 A. They lived in Massachusetts, but very close to the race,
13 right.

14 Q. And did Dr. Menninger actually pay for your flights to
15 come out?

16 A. Yes.

17 Q. And that was for you and Connor?

18 A. No, that was just for myself. Connor could not make it.

19 Q. Okay. And let's look at Dr. Menninger then -- Lisa
20 responded to you and said, "I would love that so much. I'm
21 making some progress with my doctor and trying to accept my
22 authentic self. I'm also looking forward to some time off
23 and a possible trip to the mountains."

24 Do you see that?

25 A. Yes.

1 Q. And this is in -- towards the end of May of 2018, right?

2 A. Yes, I see a date on here. It says June 7th.

3 Q. Oh, so this is -- okay. So the next message down is from
4 June 7th. And then at that point, Dr. Menninger, Lisa, wrote
5 back to you, and said, "Just an update to let you know that
6 I've decided to start training again for the ADU as a form of
7 mental therapy while I'm on short-term disability."

8 A. Yes.

9 Q. And she says at the end, "Would love it if you could
10 still make the trip."

11 A. Yes.

12 Q. And then a couple of weeks later -- well, actually,
13 strike that.

14 You said you did, in fact, go out for the ultra
15 marathon?

16 A. Yes.

17 Q. Is that right? And that was in August of 2018?

18 A. Yes.

19 Q. And at that point, did you stay with your sister and her
20 family in Dighton?

21 A. Yes.

22 Q. And then just -- is it, like, an overnight trip to go to
23 Rhode Island for the ultra marathon? How does that work?

24 A. I was there for a few days, but we commuted from their
25 home in Dighton, Massachusetts, to the race that morning.

1 **Q.** And did you crew the race alone for your sister? Did her
2 husband participate, as well?

3 **A.** I essentially crewed it alone. They did come the
4 following morning and -- so that I could get a little sleep,
5 you know, maybe 45 minutes, an hour, I can't remember, and
6 then they took over.

7 **Q.** And in the context of your sister participating in that
8 anchor downs race, you witnessed her having some panic
9 symptoms at that time around the race; is that right?

10 **A.** It was the day before the race was the first panic attack
11 that I witnessed.

12 **Q.** And Dr. Menninger, your sister Lisa, went ahead and did
13 the race after having had that panic attack?

14 **A.** The race was the following day.

15 **Q.** The race was the following day and did she end up doing
16 the race?

17 **A.** She did, yes.

18 **Q.** And it's -- the race is like 24 hours in total, right?

19 **A.** I can't recall exactly, but I think it is, yes.

20 **Q.** And do you have a recollection as to whether Lisa
21 finished the race, like got through to the end?

22 **A.** She -- I believe she finished her goal. It wasn't -- I
23 can't remember what -- if it was -- I think it was 100K race.
24 I don't think she finished 100K, but she finished what was a
25 goal for herself and that was to cross the finish line.

1 **Q.** And after that visit in August of 2018, when you crewed
2 that race, what was the next time that you saw your sister in
3 person?

4 **A.** I believe my husband and I visited them, Lisa, Mason, and
5 Maya, in June of 2019. We visited their home in Albuquerque,
6 New Mexico.

7 **Q.** And that was after she relocated to Albuquerque?

8 **A.** Yes.

9 **Q.** And can you just describe, like, physically, what was
10 the -- was that home in a rural area? In an urban area?

11 **A.** I believe it was just outside of Albuquerque. It was --
12 I can't remember the name of the -- of the area, no.

13 **Q.** With like mountains and things around?

14 **A.** Yes. Uh-huh. I think it was the Sandia Mountains is
15 what I'm recalling now.

16 **Q.** And at that time in June of 2019, did you and Lisa spend
17 time outside together?

18 **A.** Not alone with Lisa, but it was just to go outside and
19 look at the view that they had from the house. It was just
20 really pretty and peaceful.

21 **Q.** And when you say not alone with Lisa, you say it was the
22 whole family gathering?

23 **A.** I believe Maya was with us and my husband and Mason were
24 inside.

25 **Q.** Let's look at some additional text messages. So this is

1 between you and your sister in February of 2019; is that
2 right?

3 **A.** Yes.

4 **Q.** And it looks like you reached out to your sister to ask
5 about how you stopped seeing her on Facebook; is that right?

6 **A.** Yes.

7 **Q.** And so you said, "Did you get off Facebook? Everything
8 okay?"

9 **A.** Yes.

10 **Q.** So this is like between -- basically halfway between the
11 time you saw her in 2018 and the time you saw her in 2019.
12 Is that fair?

13 **A.** Correct.

14 **Q.** And then your sister explained to you that Facebook or
15 social media, it sounds like, was worsening her anxiety?

16 **A.** Yes.

17 **Q.** And then you also checked in. You asked if there were
18 any updates about her job. Do you see that below? On
19 Saturday, February 2nd.

20 **A.** Oh, yes, I see that now.

21 **Q.** You see that. Okay.

22 And then to see the full response, we're going to
23 go to the next page. And then your sister responded to you
24 and said, "Thank you. Maya is hanging in there with school
25 and hoping that she gets into the charter school." Then she

1 told you that she was no longer working for PPD?

2 **A.** Correct.

3 **Q.** And she told you about her case against PPD; is that
4 right?

5 **A.** Yes.

6 **Q.** And at this point in 2019, how often would you say you
7 were communicating with your sister?

8 **A.** I would say it varied, but at this point, maybe once
9 every week, couple of weeks.

10 **Q.** But fair to say that this text message is the first you
11 understood about your sister not working anymore at PPD?

12 **A.** This text message?

13 **Q.** Yup, the green one in the middle of the page.

14 **A.** Yes. And as far as our communications, I mean, the text
15 messages were much more frequent than just once every week or
16 two weeks. I'm referring to phone calls.

17 **Q.** You would agree, though, that this text message in the
18 middle of the page, it sounds like this is the first time
19 that your sister was telling you that she was no longer
20 working at PPD; isn't that right?

21 **A.** I believe so, yes.

22 MS. MANDEL: If I may, Your Honor, I just want to
23 provide a document.

24 THE COURT: Yeah, go ahead.

25 You don't have to do anything with that yet.

1 She'll tell you what she wants you to do.

2 THE WITNESS: Okay.

3 BY MS. MANDEL:

4 Q. Ms. Hart, you may recall that in August of 2020, you
5 provided sworn testimony in connection with this case?

6 A. Yes.

7 Q. Do you recall that? And I asked you some questions at
8 that time?

9 A. Yes.

10 Q. Does that sound familiar? And you recall at that time
11 you swore under oath to tell the truth?

12 A. Yes.

13 Q. Just like you've done today?

14 A. Yes.

15 Q. Okay. And sitting in a binder in front of you is a copy
16 of the written transcript from that deposition?

17 A. Okay. Yes.

18 Q. And I'm going to ask you to turn to -- there are four
19 pages of testimony on every single page. I'm going to ask
20 you to turn to the page that says "page 32" at the top.

21 A. Okay.

22 Q. And actually, let's first go to the bottom of page 31,
23 which is -- it's kind of a funny set up, but it's down on the
24 left?

25 A. Okay. I see it.

1 **Q.** And at that time when you testified under oath at your
2 deposition, I asked you, "Are you aware that Lisa suffers
3 from any other mental illnesses?"

4 Do you see that? That's at the bottom of page 31?

5 **A.** Oh, I do see. Yes.

6 **Q.** And at the top of page 32, that's your testimony where
7 you said, "I mean, I knew when we were roommates in college,
8 I knew she struggled with social anxiety at that time, I knew
9 she struggled with panic, not that I had witnessed at that
10 time."

11 Do you see that?

12 **A.** Yes.

13 **Q.** And does that refresh your memory about what you knew
14 about when you were roommates with Lisa in college, about
15 whether she had social anxiety or panic?

16 MR. HANNON: I'll just object, Your Honor. If
17 they're going to read the answer, it should be the full
18 answer and the question, as well.

19 THE COURT: She read the question.

20 MR. HANNON: Well, at least the full answer.

21 THE COURT: But the full answer, fair enough.

22 Why don't you just read the full answer.

23 BY MS. MANDEL:

24 **Q.** The rest of your answer was, "Lisa did tell me that her
25 psychiatrist had diagnosed, after this happened with PPD,

1 with panic disorder and generalized anxiety disorder, as well
2 as social anxiety disorder. She also developed depression
3 and suicidal thinking, which I never saw any of that prior to
4 this meeting."

5 But Ms. Hart, does this refresh your recollection
6 about whether you had observed social anxiety and panic in
7 your sister at the time that you were roommates in college?

8 **A.** At the time I didn't. I just looked at it as she was
9 just not as comfortable in settings, for example, if we were
10 at a gathering together with friends. I could see the
11 anxiety. I never really knew of any diagnoses of social
12 anxiety or panic disorder at that time. But I was -- I was
13 able to witness that she was uncomfortable and not as
14 outgoing in a group setting, especially if she had to make
15 small talk.

16 **Q.** Well, that was your language at your deposition, right?
17 That you knew she had social anxiety and panic. Isn't that
18 right?

19 **A.** Yes. I did go on to say I knew she struggled with some
20 panic, but not that I witnessed at the time.

21 MS. MANDEL: Okay. Thank you. I have no further
22 questions at this time, Your Honor.

23 THE COURT: Anything else?

24 MR. HANNON: No, Your Honor.

25 THE COURT: All right. Ms. Hart, thank you very

1 much. You're excused.

2 THE WITNESS: Thank you.

3 THE COURT: Ms. Ballweg, once she steps down, you
4 can return to the witness box.

5 And Ms. Mandel, maybe you can retrieve the notebook
6 that you have for Ms. Hart.

7 So now we resume with Ms. Ballweg, where we were
8 before.

9 Go ahead when you're ready, Ms. Mandel.

10 **DEBORAH BALLWEG**

11 having been previously duly sworn, testified as follows:

12 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT, Cont.**

13 BY MS. MANDEL:

14 **Q.** Deb, in addition to the discussion that you testified
15 earlier that you had with Dr. Menninger about the results of
16 your investigation, did you send any written update to
17 Dr. Menninger about the outcome of the investigation?

18 **A.** I believe I did, yes.

19 **Q.** And up on the screen in front of you is an e-mail that
20 you sent, dated May 22nd of 2018?

21 **A.** Yes.

22 **Q.** Do you recall sending this e-mail to Dr. Menninger?

23 **A.** Yes.

24 **Q.** And in the first sentence, you said, "As we discussed by
25 phone today"?

1 **A.** Yes.

2 THE COURT: Hold on one second.

3 The screens aren't working.

4 THE DEPUTY CLERK: Is this an exhibit?

5 THE COURT: Is this an exhibit in evidence?

6 MS. MANDEL: This is. 238.

7 THE COURT: Sorry. Now? Good.

8 Why don't you repeat the question.

9 MS. MANDEL: Thank you.

10 BY MS. MANDEL:

11 **Q.** Deb, you said in the first sentence here, "As we
12 discussed by phone today"?

13 **A.** Yes.

14 **Q.** And do you recall if, on May 22nd, you had a phone call
15 with Dr. Menninger about the outcome of the investigation
16 that you conducted?

17 **A.** Yes.

18 **Q.** What happened during that phone call?

19 **A.** Again, just relayed to Dr. Menninger the outcome of the
20 investigation, my findings.

21 **Q.** After this phone call that you had and this e-mail that
22 you sent on May 22, 2018, what did you next become aware of
23 with regard to Dr. Menninger's employment at PPD?

24 **A.** That she had -- her doctor had recommended she take a
25 leave of absence.

1 **Q.** How long after that set of communications that you had
2 with Dr. Menninger did that happen?

3 **A.** I believe it was about a week later. I think it was
4 early June.

5 **Q.** Deb, can you describe for the jury, how do you view your
6 role at PPD with HR?

7 **A.** My role is a lot of things, but I guess foundationally my
8 role is one to really work with employees and managers on
9 resolving daily issues, complex issues, really being there to
10 make sure that our employees feel valued, that it's an
11 organization that supports their development, and that my
12 role is really to help ensure that the organization and
13 employees work together to achieve those goals.

14 **Q.** Can you describe your mindset when you started the
15 investigation into Dr. Menninger's concerns in the spring of
16 2018?

17 **A.** Certainly concerned that Lisa felt this way, or
18 Dr. Menninger felt this way, and wanted to ensure -- looked
19 into all of her concerns fairly, timely, but impartially, so
20 that I could conclude an investigation and give her some
21 findings.

22 **Q.** And what was your mindset when you completed the
23 investigation and you saw that Dr. Menninger didn't seem
24 happy?

25 **A.** Again, I felt concern for Lisa. You know, the outcome of

1 the investigation certainly didn't, in my opinion, go the way
2 she had expected or wanted. However, again, at the end of
3 the day, I felt badly for her, but I couldn't change the
4 outcome of the investigation based on the fact that she saw
5 things that just weren't there.

6 **Q.** Throughout the process of supporting the business and
7 Chad during this time period, and in the spring of 2018 and
8 when you were conducting the investigation, what goals did
9 you have?

10 **A.** Again, to work with the employees, to make sure that they
11 felt they had an AVENUE in which to turn to for assistance,
12 to ensure that they had a path forward in conducting, you
13 know, their day-to-day activities.

14 MS. MANDEL: This is Joint Exhibit 446.

15 BY MS. MANDEL:

16 **Q.** You testified a few moments ago that shortly after the
17 investigation that you did was concluded, Dr. Menninger went
18 out on a medical leave. Is that accurate?

19 **A.** That's accurate.

20 **Q.** And this e-mail here is from Dr. Menninger to you and to
21 Chad St. John, saying, "My doctor has advised me to take
22 medical leave effective immediately. Please let me know if
23 there are any specific forms that I need to have her fill
24 out."

25 Do you see that?

1 **A.** Correct.

2 **Q.** And as far as you recall, did Dr. Menninger, in fact,
3 take a medical leave beginning immediately after this e-mail?

4 **A.** Yes, she did.

5 **Q.** After Dr. Menninger went out on medical leave, which was
6 at this time, did you hold out hope that she would return
7 from her leave?

8 **A.** Yes.

9 **Q.** Did Dr. Menninger ever return from her leave to work at
10 PPD?

11 **A.** No.

12 **Q.** Did you have communications with Chad or with others
13 about the hope that Dr. Menninger would return to her
14 position from medical leave?

15 **A.** Yes.

16 **Q.** And just generally, what was the nature of those
17 conversations?

18 **A.** Certainly wanting to make sure that we, you know, offered
19 Lisa the ability to come back, you know, avenues in which to
20 reach out to anyone within the organization, HR specifically,
21 and that we had desires for her to return to her job.

22 MS. MANDEL: This is Joint Exhibit 90.

23 BY MS. MANDEL:

24 **Q.** Let's look at these e-mails regarding Dr. Menninger's
25 leave. Down below, at the bottom of this page, is an e-mail

1 that Chad sent to Dr. Menninger, saying, "Please do let us
2 know if there is an additional alternative accommodation that
3 we can offer." And this is from November of 2018. Do you
4 see that?

5 **A.** Yes.

6 **Q.** And then Chad goes on, "PPD maintains that it does not
7 engage in any discriminatory or otherwise unlawful conduct."

8 Do you see that?

9 **A.** Yes.

10 **Q.** As far as you know, did Dr. Menninger ever respond to
11 this listing any other accommodations that the company could
12 offer that would allow her to return to work?

13 **A.** No. She did not.

14 **Q.** And if we look at the e-mail above that Dr. Menninger
15 wrote back to Chad, where she said, "Given my current
16 condition and PPD's continued refusal to take any action to
17 address the conduct that cause, she was unable to suggest any
18 possible accommodations that would allow me to return to
19 work."

20 Do you see that?

21 **A.** Yes.

22 **Q.** And again, after this e-mail, you're not aware -- are you
23 aware that Dr. Menninger ever came forward with any
24 additional accommodations that she was asking PPD to offer?

25 **A.** No, she did not.

1 **Q.** As far as you know, how did Central Labs handle the need
2 for an executive director of labs during the time that
3 Dr. Menninger was out on leave?

4 **A.** I believe there was a consultant that was brought in to
5 cover the licensure, but there wasn't full-time coverage for,
6 again, the licensure that she held.

7 **Q.** At some point, did Dr. Menninger's leave come to an end?

8 **A.** It did, yes.

9 **Q.** Do you recall approximately when that was?

10 **A.** So from the time she left in June, until it was, I
11 believe, February 1st of 2019, the role was held open with
12 the hope and intention of bringing Dr. Menninger back to the
13 organization. Administratively, the role being open that
14 long, we needed to make a change. We needed to change
15 Dr. Menninger's status in the system and move forward.

16 **Q.** And when did that happen?

17 **A.** Her status was changed February 1st of 2019.

18 **Q.** Deb, after the start of the COVID-19 pandemic, did PPD
19 look at whether some roles could be made remote?

20 **A.** Yes.

21 **Q.** Was the executive director of labs position ever made
22 into a remote position?

23 **A.** No.

24 **Q.** Through 2020, did it remain an in-person role in Highland
25 Heights, Kentucky?

1 **A.** Yes, it did.

2 **Q.** And did that role, in your role as HR, as far as you
3 know, did that role require in-person interaction through
4 2020?

5 **A.** Yes.

6 **Q.** How about in 2021? Was it an in-person role in Highland
7 Heights, Kentucky?

8 **A.** Yes.

9 **Q.** And how about in 2022?

10 **A.** Yes.

11 **Q.** And how about now?

12 **A.** Yes.

13 MS. MANDEL: Thank you, Deb.

14 I have no more questions at this time.

15 THE COURT: All right. Go ahead, Mr. Hannon.

16 **REDIRECT EXAMINATION BY COUNSEL FOR DEFENDANT**

17 BY MR. HANNON:

18 **Q.** Ms. Ballweg, did I hear you say that after Dr. Menninger
19 went out on leave, that PPD was holding out hope that she
20 would return?

21 **A.** Yes.

22 **Q.** I'm going to show you Joint Exhibit 229.

23 So this is a June 25th, e-mail exchange between
24 yourself and your boss, Jerry Williams, yes?

25 **A.** Yes.

1 **Q.** This is a few weeks after Dr. Menninger had gone out on
2 leave, correct?

3 **A.** Correct.

4 **Q.** Looking at the second page here, the e-mail chain begins
5 with an e-mail from Chris Fikry, yes?

6 **A.** Yes.

7 **Q.** Mr. Mekerri's boss?

8 **A.** Yes.

9 **Q.** Mr. Fikry wrote, "Any update on Lisa's transition?"
10 Do you see that?

11 **A.** I do.

12 **Q.** Did you tell Dr. Fikry that PPD was still holding out
13 hope that Dr. Menninger was going to return?

14 **A.** Yes. This was -- excuse me, this was referring to
15 transition of the licensure. How do we protect our business?

16 **Q.** Not my question, ma'am.

17 Did you tell Dr. Fikry, in late June of 2018, that
18 PPD was still holding out hope that Dr. Menninger would
19 return?

20 **A.** I don't recall if I specifically said that to Dr. Fikry.

21 **Q.** Let's take a look. E-mail here on the first page, these
22 are your -- these are your draft responses back to
23 Dr. Fikry's questions, right?

24 **A.** Yes. It appears that way.

25 **Q.** Okay. So the -- the dark print, that's what Dr. Fikry

1 asked, and the light print, those are your draft responses,
2 right?

3 **A.** Yes.

4 **Q.** Okay. And you wrote, "Lisa's leave of absence runs
5 through July 6th. I anticipate her returning to work on
6 July 9th, but not 100 percent sure she won't extend, (gut
7 more than fact.) She has a lawyer who's asked for employment
8 related documents. Nothing official in terms of a complaint.
9 However, does open the door for conversations on
10 transitioning. The traditional route requires her to return
11 to work, perform to level of expectation, be provided
12 feedback on where she falls short, then move forward with the
13 term request. Again, her having an attorney who's made
14 contact with us will lead to a faster route of resolution."

15 Do you see that?

16 **A.** Yes.

17 **Q.** Did I hear you testify a few moments ago that
18 Dr. Menninger -- that you believe that she saw things that
19 weren't there?

20 **A.** Based on my investigation of the seven areas, yes.

21 **Q.** And that's what you told Dr. Menninger after your
22 investigation, right?

23 **A.** I gave the feedback individually on all seven points,
24 yes.

25 **Q.** And you told her that all of the things that she claimed

1 she was seeing, in terms of all the different treatment that
2 you thought she was getting, you told her that was all in her
3 head, right?

4 **A.** No. I pointed to evidence of why I felt she wasn't being
5 discriminated against in a point-by-point.

6 **Q.** And that she was just imagining it, right?

7 **A.** I pointed to evidence that said, "This is not factual."
8 I can't speak to what she felt.

9 **Q.** Did you point to the evidence that was factual?

10 **A.** Talking to Brent McKinnon about the QA stuff, talking to
11 the recruiter, talking to an e-mail support from Brent
12 McKinnon from a quality perspective. There was data to
13 support the findings.

14 **Q.** How about the memo from Mr. St. John in early March of
15 2018?

16 **A.** Which memo? Sorry.

17 **Q.** The one he drafted in connection with seeking legal
18 advice. Do you recall that memo?

19 **A.** There's been a series of memos.

20 **Q.** So your testimony here is you don't remember the memo
21 that we looked at yesterday concerning Mr. St. John seeking
22 legal advice?

23 **A.** We've looked at a number of memos, but that one
24 particularly? No, I did not look at.

25 **Q.** My question is, do you remember that memo now?

1 **A.** I do.

2 **Q.** Okay. Do you remember the words he used, in terms of
3 what the advice he was looking for from Ms. Menninger?

4 **A.** Not specifically, but in general, yes.

5 **Q.** Exit strategy, right?

6 **A.** Yes.

7 **Q.** Dr. Menninger, she didn't imagine that, right?

8 **A.** The investigation pointed to the seven facts that she
9 raised. I investigated those seven points.

10 **Q.** Did you investigate Mr. St. John seeking an exit
11 strategy?

12 **A.** No.

13 **Q.** Now, part of Dr. Menninger's complaint to you concerned
14 Mr. St. John, didn't it?

15 **A.** It concerned her manager treating her differently due to
16 her disclosure of her disability.

17 **Q.** It only concerned Mr. Mekerri?

18 **A.** She felt she was being targeted and harassed by her
19 manager.

20 **Q.** Okay. She also told you about the options that were
21 presented at the start of the February 28th meeting, right?

22 **A.** Yes. By her manager.

23 **Q.** And to be clear, when you interviewed her, in connection
24 with your investigation, she told you the same story about
25 that meeting that she told this jury, right?

1 **A.** I don't recall where -- when Dr. Menninger and I had the
2 conversation, where she felt that was communicated. The fact
3 that it was communicated wasn't contested; it was -- I don't
4 recall if she said it was at the beginning or what point of
5 the conversation.

6 **Q.** So you don't recall whether Dr. Menninger's account of
7 that meeting, that she told you during your investigation,
8 you can't tell us if that's the same account that she gave
9 this jury?

10 **A.** I can honestly say that the conversation about a package
11 or consulting occurred in that conversation. But I'm not
12 100 percent certain where in that conversation, nor do any of
13 the three in that conversation.

14 THE COURT: I'm going to stop you here, Mr. Hannon.

15 So ladies and gentlemen of the jury, don't discuss
16 the case among yourselves, don't discuss it with anyone else,
17 don't do any independent research. Have a nice weekend.
18 Remember Monday, 9:00 to 1:00, and 2:00 to 4:00, same on
19 Tuesday, 9:00 to 1:00, 2:00 to 4:00, and then we're back to
20 the 9:00 to 1:00.

21 Thank you very much for your attention. All rise
22 for the jury.

23 (The jury exits the courtroom.)

24 THE COURT: Okay. See you-all Monday morning,
25 8:45, unless you think there's a reason to meet earlier.

1 MS. MANDEL: 8:45 works for us.

2 THE COURT: All right. See you then. Have a good
3 weekend. Safe travels, Ms. Hart.

4 (Court in recess at 1:02 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Rachel M. Lopez, Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing pages are a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 24th day of March, 2023.

/s/ RACHEL M. LOPEZ

Rachel M. Lopez, CRR
Official Court Reporter